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SUBVERSIVE AND ILLEGAL ALIENS IN
THE UNITED STATES

PROGRESS REPORT
TO THE
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION
OF THE INTERNAL SECURITY ACT AND OTHER
INTERNAL SECURITY LAWS
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
ON
SUBVERSIVE AND ILLEGAL ALIENS IN
THE UNITED STATES



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SUBCOMMITTEE INVESTIGATING SUBVERSIVE AND ILLEGAL ALIENS IN THE UNITED STATES

HERBERT R. O'CONOR, Maryland, *Chairman*

PAT McCARRAN, Nevada	WILLIAM E. JENNER, Indiana
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RICHARD ARENS, *Staff Director*

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REPORT FROM THE SUBCOMMITTEE INVESTIGATING SUBVERSIVE AND ILLEGAL ALIENS IN THE UNITED STATES

Hearings were held in executive session in Washington, D. C., and in New York City, respecting subversive and illegal aliens in the United States. The testimony involved three phases of the problem and, accordingly, will be submitted in three parts, the first part being transmitted herewith.

Part 1 deals with aliens in diplomatic or semidiplomatic status.

BACKGROUND

On September 22, 1950, the Congress enacted the Internal Security Act of 1950, which provides, among other things, for the exclusion from the United States of any alien, irrespective of his status, whose entry into this country would endanger the public safety, and for the deportation from the United States of any alien, irrespective of his status, if he engages in activities in the United States endangering the public safety.

Admittedly, so long as the United States maintains diplomatic relations with Communist countries, it will be necessary to admit into the United States aliens in diplomatic status who are Communists; and such aliens are not ipso facto under the Internal Security Act excludable or deportable from the United States. Evidence already presented before committees of the Congress has established, however, that diplomatic status frequently is used as a guise under which Communist agents gain admission into the United States to carry on subversive activities in this country, and that the Communist apparatus in the United States is controlled and directed by Communist agents who have gained admission in diplomatic status.

Typical of the testimony before the committees of the Congress on this problem is the following testimony of J. Edgar Hoover, Director of the Federal Bureau of Investigation, on February 7, 1950, before a subcommittee of the Senate Committee on Appropriations:

Experience has revealed that foreign espionage agents seek the protection of a legal cover. By that I mean they seek admittance into the United States on diplomatic passports. They seek assignments to some official foreign agency and thus conceal themselves under the diplomatic cloak of immunity. To further avert suspicion, a high-ranking espionage agent may very well be employed as a clerk or in some minor capacity in a foreign establishment. However, when he speaks, those with higher-sounding titles follow his orders without question. Foreign espionage services maintain strict supervision over their activities in this country.

Under date of June 30, 1949, Senator Pat McCarran, chairman of the Senate Committee on the Judiciary, transmitted to the Chief of the Central Intelligence Agency a list of 100 names which were taken at random from the names of several thousand aliens who have gained

admission into the United States in diplomatic status. The Chief of the Central Intelligence Agency was asked to report on the background of these 100 cases on the basis of the information contained in the files, but without revealing the identity of the individuals or the source of information. The Chief of the Central Intelligence Agency reported that 32 of the individuals had been—

engaged in active work for the intelligence services of their respective countries—

21 were reported to have been active in—

Communist organizational work of an underground or subversive nature, outside their homelands—

and 29 were reported to have been “ardently” working in subversive activities which—

in the light of known Communist methods, must be considered to be * * * against the interests of the United States.

Prior to the passage of the Internal Security Act of 1950, officials of the Department of Justice testified before a Senate subcommittee that under the then-existing law they were powerless to exclude from the United States any alien who presented a diplomatic passport. The Chief of the Visa Division of the Department of State testified before a Senate subcommittee that in every case in which the Visa Division had disapproved a visa application on security grounds involving officials of a foreign government or an affiliate of an international organization the case had been approved by the higher echelon of the Department of State. He further testified that the cases involving aliens in diplomatic status in which the Visa Division had disapproved the application for a visa on security grounds but in which the Visa Division was uniformly overruled were running at the rate of 8 to 10 a month.

RÉSUMÉ OF NEW TESTIMONY

The principal points in the new testimony herewith transmitted are as follows:

(1) The Chief of the Investigation Section of the Immigration and Naturalization Service testified that he had no doubt in his mind that the control and direction of the Communist apparatus in the United States is centered in aliens who are in the consulates, embassies, and international organizations in the United States; but he stated that he could not recall any case of an alien in diplomatic or semidiplomatic status who was excluded or deported from the United States since the passage of the Internal Security Act. It seems evident from further testimony of the Chief of the Investigation Section of the Immigration and Naturalization Service that little, if any, investigation has been made to develop cases of subversive aliens in diplomatic or semidiplomatic status who are deportable under the Internal Security Act of 1950 because of subversive activities in the United States.

(2) Officials of the Department of State testified that from July 1947 to March 1951 visas totaling 3,616 in number were issued to aliens in diplomatic status from iron-curtain countries; that no visa application for an alien in diplomatic status has been formally refused since the enactment of the Internal Security Act, although in two or three cases visas were not issued when they were requested.

(3) Officials of the Department of State testified that there were 85 current cases of aliens in diplomatic or semidiplomatic status, who have been admitted into the United States, on whom adverse security information has been obtained since their arrival in this country, of which number 48 were affiliates of consulates and embassies and 37 were affiliates of an international organization. Officials of the Department of State testified that the Secretary of State requested the Attorney General to admit into the United States temporarily 21 cases of Communist aliens coming to the United Nations who were excludable under the immigration laws.

(4) Officials of the Department of State testified that although the Headquarters Site Agreement of August 4, 1947, provided for a supplementary agreement between the Government of the United States and the United Nations to fix the boundaries of the headquarters district and to define the areas which it is "reasonably necessary to traverse in transit between the same and foreign countries," and although the United States expressly reserved its right to control the entrance by aliens coming to the United Nations into any territory of the United States other than the Headquarters District and its immediate vicinity, no such supplementary agreement has, as yet, been negotiated, and therefore the right of the United States to control the movement of such aliens has been effectively impeded.

(5) Officials of the Department of State testified that although the Internal Security Act provides for the exclusion, pursuant to such rules and regulations as the President may deem necessary, of ambassadors, public ministers, and career diplomatic and consular officers whose admission into the United States would endanger the public safety, the President has not yet issued any such rules and regulations.

(6) The testimony of an official of the Immigration and Naturalization Service, and of officials of the Department of State, reveals that in December of 1950, one Roman Kutylowski, president, Gdynia-American shipping lines, who had arrived at a port of entry in the United States, was detained for exclusion from the United States by the Immigration and Naturalization Service as a subversive alien; that the Department of State recommended to the Department of Justice that Mr. Kutylowski's temporary admission into the United States would be "highly desirable in the national interest from the standpoint of the conduct of our foreign relations," and that thereafter the Attorney General admitted Mr. Kutylowski into the United States. The testimony and information of the Internal Security Subcommittee establishes, beyond doubt, that Mr. Kutylowski's presence in the United States is detrimental to the security of this Nation.

RECOMMENDATIONS

The subcommittee recommends:

(1) That the officials of the Department of Justice and the officials of the Department of State forthwith inaugurate a vigorous program of enforcement of those provisions of the Internal Security Act of 1950 which are designed to exclude from the United States aliens, irrespective of their status, who are coming to this country to engage in activities which would endanger the public safety, and to deport from the United States aliens, irrespective of their status, whose presence in this country endangers the public safety.

(2) That the Department of State proceed forthwith to negotiate a supplementary agreement, pursuant to, and as called for by, the Headquarters Site Agreement of August 4, 1947, between the Government of the United States and the United Nations, fixing the boundaries of the headquarters district and defining the areas which it is "reasonably necessary to traverse in transit between the same and foreign countries" so as to permit effectuation by the United States of its expressly reserved right to control the entrance of aliens into any territory in the United States other than the headquarters district.

(3) That the President of the United States, pursuant to the provisions of the Internal Security Act of 1950, cause to be issued rules and regulations for the exclusion of ambassadors, public ministers, and career diplomats and consular officers whose admission into the United States would endanger the public safety.

HERBERT R. O'CONNOR, *Chairman.*

PAT McCARRAN.

WILLIAM E. JENNER.

PART 1

[Excerpts from hearings held April 12, 13, May 3, 11, and 29, 1951]

SUBVERSIVE AND ILLEGAL ALIENS IN THE
UNITED STATES

THURSDAY, APRIL 12, 1951

SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY ACT
AND OTHER INTERNAL SECURITY LAWS
OF THE COMMITTEE ON THE JUDICIARY,
New York City, N. Y.

The subcommittee met at 2 p. m., pursuant to recess, in room 2804, United States Courthouse, New York, N. Y., Hon. Herbert R. O'Connor, presiding.

Present: Senators O'Connor and Jenner.

Present also: Richard Arens, director of the subcommittee; Frank W. Schroeder, staff member; Donald D. Connors, Jr., Mitchel M. Carter, and Edward R. Duffy, investigators.

Senator O'CONNOR. The subcommittee will come to order.

* * * * *

TESTIMONY OF C. HAROLD PENNINGTON, CHIEF, INVESTIGATIONS
SECTION, IMMIGRATION AND NATURALIZATION SERVICE

Senator O'CONNOR. In the presence of Almighty God, do you swear that the testimony you shall give will be the truth, the whole truth and nothing but the truth; so help you God?

Mr. PENNINGTON. I do.

Senator O'CONNOR. Mr. Pennington, what is your full name?

Mr. PENNINGTON. C. Harold Pennington.

Senator O'CONNOR. What is your official position?

Mr. PENNINGTON. Chief of Investigations, Immigration and Naturalization Service, New York City?

Senator O'CONNOR. Mr. Pennington, there was requested a certain file which I understand you have brought in accordance with the request.

Mr. PENNINGTON. That is right.

Senator O'CONNOR. Would you be kind enough to let us have it? You do understand it is desired that you be present when the file is inspected.

Mr. PENNINGTON. May I explain before you—

Senator O'CONNOR. So it may be identified, it is the file of Roman Kutylowski?

Mr. PENNINGTON. Yes, sir. I noticed when I got hold of the file there is there on the bottom an indication that the majority of the file was sent to Washington when this case was closed in New York, so that is all the file.

Senator JENNER. This is not the complete file?

Mr. PENNINGTON. This is not the complete file.

Senator O'CONNOR. You have reference to the letter of December 26, 1950, a confidential letter sent to the personal attention of Murray Roberts, which states:

In accordance with your telephonic request today there is forwarded entire decentralized file—

giving the number—

in the case of Roman Kutylowski. Please return it when it has served its purpose to you.

That is the communication to which you refer?

Mr. PENNINGTON. Yes.

Mr. ARENS. Mr. Pennington, it is the purpose of the subcommittee to take your testimony tomorrow. In view of the lateness of the hour we will not be able complete our interrogation of you today, but we thought in view of the fact you had the file in your custody now we could touch on this matter and cover other matters with you at another time.

Senator O'CONNOR. In that connection, Mr. Pennington, would it expedite matters at all if you were to leave the file?

Mr. PENNINGTON. They told me not to. As far as I am concerned, it is perfectly all right.

Senator O'CONNOR. All I was trying to do was to avoid unnecessary delay on your part.

Mr. PENNINGTON. I thought maybe it would shorten things if you looked at that yellow sheet. That is a summary of it.

Senator O'CONNOR. We were going to ask you if you couldn't summarize it for us and give us an over-all summary of it.

Mr. PENNINGTON. I am not familiar with the file entirely excepting since I was called about 2 o'clock I looked through the file and I noticed that our case was sent into the Washington office and then into the Board of Immigration Appeals. We are governed by what the Board of Immigration Appeals finds in the case.

I notice in their findings that they have ordered Mr. Kutylowski admitted under the ninth proviso of section 3 of the Immigration Act of 1917—

Mr. ARENS. That is the subversive section which would make him normally excludable?

Mr. PENNINGTON. That is the ninth proviso.

Mr. ARENS. Section 3 of your 1917 act contains certain provisions of the law applicable to subversives.

Mr. PENNINGTON. Certain ones excepting that this particular portion is contained in the Internal Security Act.

Mr. ARENS. Yes.

Mr. PENNINGTON. But the ninth proviso is in the third section of the 1917 act—because of a request made by the Department of State that he be admitted.

Senator O'CONNOR. On what was that based?

Mr. PENNINGTON. The only thing I have to go by is that third paragraph, I believe it is the third paragraph, in the first page.

Mr. ARENS. Let us clear the record for the benefit of the subcommittee on what the legal situation is.

Is it not a fact that Mr. Kutylowski, without some extraordinary discretionary relief, would be excludable from the United States as a subversive?

Mr. PENNINGTON. That is right.

Mr. ARENS. But under the ninth proviso to section 3 of the 1917 act the Attorney General is vested with certain discretionary power to temporarily admit into the country aliens who are otherwise excludable; is that true?

Mr. PENNINGTON. That is correct.

Mr. ARENS. And the ninth proviso was exercised on behalf of Mr. Kutylowski who would be excludable as a subversive?

Mr. PENNINGTON. That is right.

Senator O'CONNOR. I will read into the record that particular paragraph so that it will be clear as to what you are referring to:

Based solely upon the recommendation of the Department of State that it considers the applicant's temporary admission to be highly desirable in the national interest from the standpoint of the conduct of our foreign relations, we shall authorize the subject's temporary admission to August 1, 1951, subject to revocation at any time in the discretion of the Attorney General.

That is the provision you mean?

Mr. PENNINGTON. That is right.

Mr. ARENS. Who is Mr. Kutylowski?

Mr. PENNINGTON. He is the president of the Gdynia-American Lines.

Mr. ARENS. What is the Gdynia-American Lines?

Mr. PENNINGTON. It is owned by the Polish Government and they are the operators of the motorship *Batory*.

Mr. ARENS. That motorship *Batory* is the ship which is the sister ship to the *Sobieski*; is it not?

Mr. PENNINGTON. That is right.

Mr. ARENS. And it is the ship which Gerhart Eisler escaped; is it not?

Mr. PENNINGTON. That is right.

Mr. ARENS. It is owned by the Polish Communist Government?

Mr. PENNINGTON. That is right.

Senator O'CONNOR. This is the same man who figured in the Gerhart Eisler case, at least he was interrogated?

Mr. PENNINGTON. He was interrogated at that time and he was president of the line at that time.

Mr. ARENS. Now the Gdynia lines of which Mr. Kutylowski is president operated in the United States a Communist radio series, did it not? Do you have any information on that?

Mr. PENNINGTON. I have no information on that.

Mr. ARENS. It was due to the intervention of the senior Senator from Maryland that that radio program was stopped.

Senator O'CONNOR. I recall the case very well because it was quite shocking to us at the time. We found not only the interest that they had in the broadcasting but the fact that the Embassy in Washington was so careful. I can recall seeing that they brought a man all the way from the west coast or a considerable distance because they wanted to select him personally to have charge of the material that was going in.

Mr. PENNINGTON. I have heard of their radio program through some of the FBI. The FBI was dealing with that particular thing but how subversive it was I did not know.

(Discussion off the record.)

Senator O'CONNOR. Then, Mr. Pennington, we will see you tomorrow.

**TESTIMONY OF LOUIS WIENCKOWSKI, INVESTIGATOR,
IMMIGRATION AND NATURALIZATION SERVICE**

Senator O'CONNOR. In the presence of Almighty God do you swear that the testimony you shall give will be the truth, the whole truth, and nothing but the truth; so help you God?

Mr. WIENCKOWSKI. I do.

Senator O'CONNOR. What is your full name?

Mr. WIENCKOWSKI. Louis Wienckowski.

Senator O'CONNOR. What is your position?

Mr. WIENCKOWSKI. Investigator.

Senator O'CONNOR. For Immigration and Naturalization Service?

Mr. WIENCKOWSKI. Yes, sir.

Senator O'CONNOR. How long have you been with them?

Mr. WIENCKOWSKI. Since May 2, 1941.

Senator O'CONNOR. Now, Mr. Arens, will you proceed?

Mr. ARENS. Mr. Wienckowski, you are appearing here under subpoena?

Mr. WIENCKOWSKI. Yes, indeed.

Mr. ARENS. Have you been admonished, advised, or instructed by any person respecting your testimony here today?

Mr. WIENCKOWSKI. I haven't.

Mr. ARENS. You are a completely free agent and will testify fully and freely before this subcommittee?

Mr. WIENCKOWSKI. Yes, sir.

Mr. ARENS. And you will answer any questions put to you fully and freely, without restraint?

Mr. WIENCKOWSKI. Yes.

Mr. ARENS. Are you familiar with the Kutylowski case?

Mr. WIENCKOWSKI. Yes, sir.

Mr. ARENS. Will you recite for the benefit of the subcommittee the facts surrounding that case and cover the high lights of the case?

Mr. WIENCKOWSKI. Kutylowski is the president of the Gdynia-American Line. I had been instrumental in conducting an investigation on the Gdynia Line and the vice president was a member of the Communist Party and I think through the committee he had been deported because at the time prior to the Security Act of 1950 we could not.

Mr. ARENS. What committee are you referring to?

Mr. WIENCKOWSKI. The subcommittee of the Senate Judiciary Committee. I think you conducted hearings in 1949.

Mr. ARENS. On Senator McCarran's bill S. 1832?

Mr. WIENCKOWSKI. Yes.

Mr. ARENS. And I believe Senator O'CONNOR was presiding at the session at which Mr. Kutylowski appeared?

Mr. WIENCKOWSKI. I believe so.

Kutylowski being the president of the line, we did suspect he was active with the Polish Communist Government. We had informants

within the line and we had information as to some of his activities. However, we could never place him within the party itself. He was not a member of the American Communist Party. If he was a member of the Polish Communist Party, we could not penetrate.

However, since we suspected some of his activities we received information from a confidential source, from Copenhagen, that he was arriving in the United States 2 days before Christmas, I think on Saturday.

Mr. ARENS. What year?

Mr. WIENCKOWSKI. 1950.

I passed on this information to Mr. Esperdy in our office for his action and they detained Mr. Kutylowski upon arrival. About 2 weeks later they called me and said we had to get a case against Kutylowski and see what I could do.

I went out and spent quite a bit of time working on this thing. We did find out that he had been active as a propaganda agent; he had received substantial amounts from the Polish Embassy in conducting propaganda activities.

Mr. ARENS. Was that in the form of radio programs, too, among other things?

Mr. WIENCKOWSKI. Some of the money was used for radio programs. Another thing it was used for was in connection with a newspaper which has been subsidized by the Polish consulate. I think it was the *Nowa Epoka*. That was a Communist publication.

Mr. ARENS. Is it now in existence?

Mr. WIENCKOWSKI. It is not in existence any more. It had gone out of existence subsequent to the hearings which were conducted in Washington at which Mr. Kutylowski was examined by the committee.

We also did obtain information from people who were present at Kutylowski's apartment on one occasion when I think the Ambassador, Winiewicz,¹ was present, and I think Stanczyk.² He was the representative to the United Nations from Poland. He was present. Mr. Gutowski,³ the editor of the *Nowa Epoka*, was present.

At this time Gutowski was instructed on methods of penetration into Polish-American organizations which were anti-Communist. At that time we felt we had sufficient information to bar Mr. Kutylowski from entering the United States and to exclude him.

I was off starting the month of February and I think about the 2d or 3d of February I was advised by one of my informants that Mr. Kutylowski had been released from Ellis Island. As to why he was released I did not know.

Mr. ARENS. You know he got the ninth proviso?

Mr. WIENCKOWSKI. No; I did not.

Mr. ARENS. You know it now.

Mr. WIENCKOWSKI. Now you tell me, this is the first time I am aware of it.

My informants had advised me that Mr. Kutylowski, if he would not be admitted, would be turned back to Poland and a second admission as a diplomat. They intended to bring him in in that manner. However, subsequently information reached me that some pressure was being put on the State Department. One source had it that the

¹ Josef Winiewicz, Polish Ambassador.

² Jan Stanczyk.

³ Stanislaw Gutowski.

way this pressure was put on was through the Moore-McCormack Lines, some official in the Moore-McCormack Lines, was advised that they would in some manner take steps to affect the Moore-McCormack business in Poland and probably oust some of the officials.

Another source had it that the line had been using so-called five-percenters in Washington to obtain export licenses, to expedite export licenses, and that they used this same source to effect Mr. Kutylowski's freedom from our custody.

Now I never had the occasion to follow that up because the case was out of my hands upon my submitting the report in January.

Mr. ARENS. Do you know of Mr. Kutylowski's activities now since he has gotten back in the country?

Mr. WIENCKOWSKI. No, I do not.

Mr. ARENS. The Russian Government operates the *Sobieski*, does it not?

Mr. WIENCKOWSKI. At the present time I am informed it does.

Mr. ARENS. The Polish Communist Government operates the *Batory*?

Mr. WIENCKOWSKI. Yes.

Mr. ARENS. The *Batory* is the ship that Eisler escaped on?

Mr. WIENCKOWSKI. That is true.

Mr. ARENS. I understand you have some information respecting the escape of Gerhart Eisler?

Mr. WIENCKOWSKI. Well, I am still conducting the investigation on the escape of Gerhart Eisler. Some of this information I would rather give off the record, in view of the fact that we still may be able to possibly prosecute the people involved.

(Discussion off the record.)

Mr. ARENS. You are a member of the squad or staff that investigates Communist activities among aliens and Communist aliens?

Mr. WIENCKOWSKI. Yes.

Mr. ARENS. What is the general Communist Party situation here in New York among aliens?

Mr. WIENCKOWSKI. Well, it seems to me that they have made—the Communist Party has made—the greatest advances in the foreign elements. They are trying to penetrate into the so-called anti-Communist organizations by various means. They also have penetrated an enormous amount of unions but the membership I think is presently becoming more aware of the fact of the penetration.

* * * * *

Mr. ARENS. Has the McCarran Act helped you in your problems of picking up Communist aliens?

Mr. WIENCKOWSKI. Yes, sir. Specifically I will mention this case of the vice president of the Gdynia-America Line. He had been a member of the Polish Communist Party. We were able to establish membership for a certain period of time subsequent to the end of the war at which time we were allegedly still playing along with our great allies, the Russians, which would tend to indicate that they did not intend to overthrow the Government of the United States although we know the purpose has been that, but we could never prove that the Polish Communist Party in 1947, which was the period, advocated the overthrow of this Government by force and violence. We didn't have evidence to place him as a member. However, since the passage of the

McCarran Act we did not have to prove that the Polish Communist Party at that time advocated the overthrow of the Government by force and violence.

Senator O'CONNOR. What is the name?

Mr. WIENCKOWSKI. Czeslaw Grzelak.

Senator O'CONNOR. He was deported?

Mr. WIENCKOWSKI. He has been deported.

Incidentally, he had appeared before your committee in Washington at the same time as Kutylowski.

Mr. ARENS. How many alien Communists have you picked up since the McCarran Act passed?

Mr. WIENCKOWSKI. I myself had completed cases on——

Mr. ARENS. I mean your unit.

Mr. WIENCKOWSKI. That I would not know. I have no idea.

Mr. ARENS. How many have you picked up?

Mr. WIENCKOWSKI. I myself have had three cases developed since the passage of the McCarran Act.

Mr. ARENS. How many did you do prior to the McCarran Act? How many did you pick up?

Mr. WIENCKOWSKI. Three as a result of that.

Mr. ARENS. I do not believe I made my point clear. You say you picked up personally three alien Communists since the passage of the McCarran Act which was September 23, 1950.

Mr. WIENCKOWSKI. That is right.

Mr. ARENS. How many did you pick up in a year prior to the passage of the McCarran Act?

Mr. WIENCKOWSKI. I think about five or six.

Mr. ARENS. How many were deported of those five or six?

Mr. WIENCKOWSKI. I only know of one that was deported out of that group, and one subsequent to the passage of the McCarran Act. It was two.

* * * * *

Senator JENNER. I would like to ask a question. You were assigned as investigator on this Kutylowski case. I think you made the statement that you learned he had been released from Ellis Island.

Mr. WIENCKOWSKI. Yes, sir.

Senator JENNER. You had been assigned as investigator?

Mr. WIENCKOWSKI. Yes.

Senator JENNER. Did not your superiors tell you that he had been released or why he had been released?

Mr. WIENCKOWSKI. I will clear that point up. I had been away on leave the month of February. I was studying for a bar examination. My connection with the Kutylowski case ceased upon my completing the report and submitting the report. After that I had no further connection with the case. When I submitted the report it was sufficiently established in my mind that we had sufficient grounds to exclude him. I couldn't possibly believe that they would ever permit him to enter the United States. He was released, I think, on the 2d or 3d of February.

Senator JENNER. You never learned why he was released?

Mr. WIENCKOWSKI. No; I never learned that.

Senator JENNER. Until today?

Mr. WIENCKOWSKI. Until today, that was under the Ninth Proviso.

Senator JENNER. Your superiors or somebody down there would know why he was released. Somebody would have to know.

Mr. WIENCKOWSKI. Somebody would have to know.

Senator JENNER. You did not make any inquiries?

Mr. WIENCKOWSKI. No.

Senator JENNER. Your curiosity was not sufficiently aroused to find out why they let a man like that in?

Mr. WIENCKOWSKI. Frankly, I was burned up about the thing, because it put me in a bad light in view of the fact that I had contacted certain informants who had given information on this individual, and which I have to contact on subsequent investigations, and I am confronted with this fact that here they gave me information that was sufficient to exclude him.

Senator JENNER. Did you not go to anybody and make a complaint about that and ask why this had been done?

Mr. WIENCKOWSKI. To whom could I make the complaint?

Senator JENNER. Would not your superior, for example, the chief of your section, have some knowledge of the situation, that a man you said should not enter had been permitted to come in? Would he not have knowledge of that?

Mr. WIENCKOWSKI. We have had cases back in the office over a period of years like the Browder case where I think they released Browder's wife who had been a member of the Communist Party and she was admitted to the United States and I think there were sufficient grounds to exclude her, and yet we are not in a position to question the administration on why these people are admitted.

Senator JENNER. In other words, does not anybody have knowledge in your office who gave the authority to let this person in?

Mr. WIENCKOWSKI. Somebody higher up may have.

Senator JENNER. In your office.

Mr. WIENCKOWSKI. Possibly the district director may have that information. It was not available to me. You see, that is just one out of 30 or 40 cases we have to handle, and those things are happening all the time. When I came back I had just gotten through with the bar examination and I had other matters which had to be expedited.

Of course my personal feelings cannot enter into this thing. All I am told to do is get the facts and I get the facts. And of course this thing turns up, what can I do?

Mr. ARENS. There are other cases of this character?

Mr. WIENCKOWSKI. On the Browder case we have had several deportation cases where we proved membership in the Communist Party. The thing is dragged out. It is a terrific thing to develop witnesses. First, you have to develop informants. The only people we can use on these proceedings are former members of the Communist Party who can testify that these persons were present. When we get these informants we have to get them to testify. They do not gain anything by testifying for the Government. The party beats their families up, they threaten them if they testify. We have had this problem ever since we have been conducting these investigations. It is easy enough to get the information but it is difficult to get people to testify.

Mr. ARENS. To what extent are the Communists admitted into this country under the Ninth Proviso?

Senator O'CONNOR. In regard to that particular bit of information as to Kutylowski's participation in the meeting with the United States officials, I did understand you to say before it had to do with regard to the penetration into anti-Communist organizations.

Mr. WIENCKOWSKI. Yes. You see, the directives had been sent through by the Polish intelligence to the Military Mission, Military Attaché in Washington, to penetrate these anti-Communist organizations and seize control of them and utilize them for the purpose of exploiting the Communist Government. That was Kutylowski's job, apparently, in this thing, in furtherance of this directive.

Senator O'CONNOR. But all of course for the benefit of the Communist Government?

Mr. WIENCKOWSKI. That is it.

Senator O'CONNOR. Do you recall the names of the anti-Communist organizations?

Mr. WIENCKOWSKI. Well, it was the Polish National Alliance. I have gotten away from these anti-Communist organizations. I have to refresh my recollection. I think the Polish Union. There are several organizations of that particular type. They are Americans, they are anti-Communist, and in order for the Communists to be able to exploit these organizations for their benefit, they have to seize control of them.

Mr. ARENS. Did you do any investigating of Communist aliens who come in here as affiliates of international organizations or as affiliates of Communist embassies?

Mr. WIENCKOWSKI. No; because these people are admitted here under a diplomatic status.

Senator JENNER. The same applies to the United Nations?

Mr. WIENCKOWSKI. That is true.

Mr. ARENS. Under the McCarran Act there is a change in that, is there not?

Mr. WIENCKOWSKI. Well, I haven't had occasion to investigate any of the people who have been admitted as diplomats.

Mr. ARENS. Since the passage of the McCarran Act, which provides for the deportation of any Communist, irrespective of his diplomatic status, who is here in jeopardy of public safety, have you had occasion to investigate a single alien Communist in diplomatic or semidiplomatic status?

Mr. WIENCKOWSKI. No; I haven't.

Mr. ARENS. Has anyone in the Immigration Service, to your knowledge?

Mr. WIENCKOWSKI. Not to my knowledge. I will strike that answer out, or I will clarify it in this manner.

We had an occasion where the niece of the Polish representative to the United Nations, Katz-Sufchy, and her name is spelled K-a-t-z S-u-f-c-h-y N-e-n-z-i-k; she had left the United States. She was an illegally admitted alien, and I think she attended some conference. She left without a reentry permit, and she knew she would not be readmitted. When she came back she was in the position of an accredited representative to the United Nations. That is one instance I know of.

Mr. ARENS. To your knowledge, has there been excluded from the United States under any law, McCarran Act or any other law, any person who arrived with a diplomatic visa?

Mr. WIENCKOWSKI. It is the function of the Boarding Division.

Mr. ARENS. Do you know of any?

Mr. WIENCKOWSKI. I do not know of any.

Mr. ARENS. Do you know of any individual who has ever been excluded from the United States, either before or after the passage of the McCarran Act, who arrived with a 3 (1) visa as an affiliate or associate of a consulate or embassy, or 3 (7) visa as an affiliate, associate, or invitee of the United Nations?

Mr. WIENCKOWSKI. No; I do not.

Mr. ARENS. The McCarran Act provides for the exclusion from the United States and for the deportation from the United States of aliens who are coming here to engage in activities dangerous to the public safety; is that not true?

Mr. WIENCKOWSKI. I understand that is true.

Mr. ARENS. You are familiar with the McCarran Act, are you not?

Mr. WIENCKOWSKI. Yes.

* * * * *

Mr. ARENS. Do you have any information respecting the Communist activities of aliens in the United States who are here in diplomatic or semidiplomatic status?

Mr. WIENCKOWSKI. Well, Stanczyc¹—

Mr. ARENS. What is his full name

Mr. WIENCKOWSKI. I haven't got that. All I have is his last name.

Mr. ARENS. Tell us about the case.

Mr. WIENCKOWSKI. Stanczyc had been active in the propaganda field and penetration of the Polish organizations. I do not know of any activity as far as espionage is concerned, but most of the objectives of the accredited representatives are penetration, propaganda. That seems to be their strongest weapon and seems to be their greatest objective at the present time.

Mr. ARENS. But you and your unit are precluded by some policy from investigating alien Communists in the United States who have come into the United States with a visa for admission as an affiliate of a consulate or embassy or as an affiliate of an international organization; is that true?

Mr. WIENCKOWSKI. I would say that we have not been doing it. Whether we are precluded or not, I don't know, because I haven't had occasion to conduct investigation of a United Nations representative. I haven't had any cases on that. If I have a case I continue with that.

Mr. ARENS. Do you know whether anybody in your unit has cases involving aliens in those categories?

Mr. WIENCKOWSKI. I do not know, because, as a rule, we do not discuss with another investigator the type of cases we are handling. Due to the limited number of investigators that we have on this type of work we specialize in certain fields.

Mr. ARENS. How many investigators do you have in this type of work?

Mr. WIENCKOWSKI. I think we have about 30. We started off with the grand sum of 5 investigators in 1947 and then, of course, we increased the staff to about 12. Then I think shortly—well, I wouldn't say shortly—after a period of time, they reduced the staff down to 5 and then increased the staff to the present number, 30. It is quite

¹ Jan Stanczyc.

difficult to train them. In order to be able to do this type of work, you have to train the man, you have to teach him about the principles of the Communist Party, their methods, the type of people that are members of the party that you have to contact. It is an awful lot of work developing informants. It is one of the things where people don't come forward and say, "We have information on somebody." We have to go out and dig them up. That is the problem we are facing.

Mr. ARENS. Do you have information, irrespective of how you obtain it, respecting the extent to which the Communist Party in the United States is controlled and directed by aliens who are sent here with diplomatic or semidiplomatic immunity?

Mr. WIENCKOWSKI. No; I do not have any positive information. It is merely hearsay that they do send their agents periodically, that they are controlled through the various embassies. They operate out of the various embassies of the iron-curtain countries.

Mr. ARENS. Do you have any information as to what extent they operate out of international organizations in the United States?

Mr. WIENCKOWSKI. No.

Mr. ARENS. Is there anything else you would like to express to the subcommittee whether it is germane to what I have been asking you about or not on this general area or anything else you feel would be of interest to the subcommittee?

Mr. WIENCKOWSKI. I don't think there is anything at the present moment that I can think of.

Senator O'CONNOR. We appreciate very much indeed your cooperation.

Mr. WIENCKOWSKI. Thank you, Mr. Chairman.

Senator O'CONNOR. The subcommittee will now recess until 10 o'clock tomorrow morning.

(At 5:40 p. m. the subcommittee recessed until 10 a. m. Friday, April 13, 1951.)

SUBVERSIVE AND ILLEGAL ALIENS IN THE UNITED STATES

FRIDAY, APRIL 13, 1951

SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS
OF THE COMMITTEE ON THE JUDICIARY,
New York City, N. Y.

The subcommittee met at 10 a. m., pursuant to recess, in room 2804, United States courthouse, New York, N. Y., Hon. Herbert R. O'Connor presiding.

Present: Senator O'Connor.

Present also: Richard Arens, director of the subcommittee; Frank W. Schroeder, professional staff member; Donald D. Connors, Jr., Mitchel M. Carter, and Edward R. Duffy, investigators.

STATEMENT OF C. HAROLD PENNINGTON, CHIEF, INVESTIGATIONS SECTION, IMMIGRATION AND NATURALIZATION SERVICE— Resumed

Senator O'CONNOR. The hearing will come to order.

Mr. Pennington, you have been sworn and it is unnecessary to swear you again; we will just consider the oath outstanding.

Just for the record, Mr. Pennington, will you give your full name again, please?

Mr. PENNINGTON. C. Harold Pennington.

Senator O'CONNOR. Your position?

Mr. PENNINGTON. Chief of Investigations, Immigration and Naturalization Service, New York.

Senator O'CONNOR. For what period of time, Mr. Pennington, have you been connected with the Service?

Mr. PENNINGTON. Connected with the Service since October 1930.

Senator O'CONNOR. How long have you occupied your present post?

Mr. PENNINGTON. I came to New York on detail in October 1948, and was officially transferred in January 1949.

Senator O'CONNOR. All right, Mr. Arens, will you proceed?

Mr. ARENS. When we concluded yesterday or suspended yesterday we were in the process of discussing the Kutylowski case. I understand you have the file with you this morning. Is Mr. Kutylowski now in the United States?

Mr. PENNINGTON. Yes, sir.

Mr. ARENS. When did he last arrive in the United States?

Mr. PENNINGTON. He came at Idlewild December 23, 1950.

Mr. ARENS. That was since the passage of the Internal Security Act?

Mr. PENNINGTON. That is correct.

Mr. ARENS. Was he excluded from admission in the first instance by the Immigration and Naturalization Service?

Mr. PENNINGTON. He was held under what is known as rule 175 under which an inspector has the authority to refuse admission without a Board hearing.

Mr. ARENS. To what type of cases does rule 175 apply?

Mr. PENNINGTON. Subversive cases.

Mr. ARENS. Was Mr. Kutylowski so excluded?

Mr. PENNINGTON. That is right.

Mr. ARENS. But he was subsequently admitted into the country, and how was he admitted?

Mr. PENNINGTON. He appealed his case to Washington and it went to the Board of Immigration Appeals who on February 1, 1951, ordered the alien Roman Kutylowski be admitted into the United States under the ninth proviso to section 3 of the Immigration Act of 1917 for a temporary period to August 1, 1951, notwithstanding his inadmissibility as one who has been, is, or may be a member of any one of the classes of aliens enumerated in section 1 (2) of the act of October 16, 1918, as amended, subject to revocation at any time in the discretion of the Attorney General.

Mr. ARENS. Now that act of October 1918, as amended, is part of the Internal Security Act?

Mr. PENNINGTON. The Internal Security Act amended the act of 1918.

Senator O'CONNOR. I believe I noticed from the memorandum of yesterday that that order was made at the instance of the Department of State.

Mr. PENNINGTON. That is correct.

Mr. ARENS. What was the representation made by the Department of State?

Mr. PENNINGTON. If I may quote from the discussion of the Board of Immigration Appeals, paragraph 2:

Confidential information has been received from intelligence agencies which places this individual within the provisions of section 1 (2) of the act of October 16, 1918, as amended. However, the Secretary of State in a communication dated January 29, 1951, advises that the Department of State considers the temporary admission of the applicant to be highly desirable in the national interest from the standpoint of the conduct of our foreign relations and requests that the Attorney General exercise his discretionary authority for the temporary admission of the applicant under the ninth proviso to section 3 of the Immigration Act of February 5, 1917.

Mr. ARENS. May I summarize this situation, and you correct me if this summary is in error in any respect.

Mr. Kutylowski was excluded under the Internal Security Act by the Immigration and Naturalization Service in the first instance as a subversive; is that correct?

Mr. PENNINGTON. That is correct.

Mr. ARENS. Thereafter, upon the representation of the State Department, Mr. Kutylowski's admission into the United States was in the public interest or in the interest—

Mr. PENNINGTON. Of international relations.

Mr. ARENS. He was admitted into the United States under the ninth proviso; is that correct?

Mr. PENNINGTON. That is correct.

Mr. ARENS. Now do you have information as to who it was in the State Department who made that representation?

Mr. PENNINGTON. The Board of Immigration's discussion of February 1, 1951, indicates they have a letter from the Secretary of State dated January 29, 1951. That letter, however, does not appear in the New York file and would probably be found in the Department file.

Mr. ARENS. Now who in the State Department would be the individual who would pass upon this type of case to make the representation to the Justice Department?

Mr. PENNINGTON. That I can't answer. I assume that the correspondence would be signed by either the Secretary or the Under Secretary. I can only assume that, however.

Mr. ARENS. Yes; but I was interrogating you with reference to the practice, as to who would normally make that decision on behalf of the Secretary.

Mr. PENNINGTON. I have no contact with them at any time, so I don't know who makes that.

Mr. ARENS. Now do you have information respecting the activities of Mr. Kutylowski in the United States since his admission under the ninth proviso?

Mr. PENNINGTON. No.

Senator O'CONNOR. Is there any effort being made to either keep him under surveillance or to ascertain what he is doing?

Mr. PENNINGTON. Not by the Immigration Service. I understand there is, however, by the FBI. That is what I have been told.

Mr. ARENS. You have information, do you not, however, respecting the activities of Mr. Kutylowski in the United States prior to the time that he was last admitted into this country?

Mr. PENNINGTON. Yes, sir.

Mr. ARENS. When was he last in the United States prior to the time when he was admitted, this last time?

Mr. PENNINGTON. The departure report shows that he left the United States September 24, 1950.

Mr. ARENS. And he had been in here for some considerable period of time prior to the time that he departed?

Mr. PENNINGTON. That is right.

Mr. ARENS. And he is now in the country?

Mr. PENNINGTON. He is now in the country.

Mr. ARENS. What was the nature of his activity while he was in the country before he departed on his previous trip?

Mr. PENNINGTON. There is a complete investigation here that was made by Investigator Wienckowski at the time he was being held on Ellis Island that indicates the entire activity. I have not read the report of the investigation. However, Mr. Wienckowski has told me some of the things in his investigation.

Mr. ARENS. You are Mr. Wienckowski's immediate supervisor?

Mr. PENNINGTON. Well, there are two supervisors between him and me.

Mr. ARENS. You are the over-all chief of the unit in which Mr. Wienckowski works?

Mr. PENNINGTON. That is right.

Mr. ARENS. What is it that Mr. Wienckowski told you from the standpoint of the activities of Mr. Kutylowski when he was in the United States on his previous trips?

Mr. PENNINGTON. He told me that Mr. Kutylowski had called meetings at his home which, I believe Mr. Wienckowski stated, he had conclusively proved were called for the purpose of carrying out Communist mandates from the Polish Government.

Mr. ARENS. Do you have the names of the individuals who attended those meetings?

Mr. PENNINGTON. I don't have them at the moment.

Mr. ARENS. Mr. Pennington, is the unit which investigates subversives, Communists, within the over-all Investigation Section of which you are Chief?

Mr. PENNINGTON. Yes. I have an assistant chief in charge of that group that pays particular attention to the cases.

Mr. ARENS. On the basis of your experience as Chief of the Investigations Section of the New York District Office, what is your appraisal of the extent to which the Comintern uses its consulates and embassies and international organizations in the United States as conduits for the penetration of this country by Communist agents?

Mr. PENNINGTON. As far as we have run across, I would say it is almost exclusively used for that purpose.

Mr. ARENS. Would you elaborate on what you mean by that?

Mr. PENNINGTON. The thing that I mean, I don't have proof of that, everybody in a foreign embassy that is Communist carries on activities subversive to the United States. However, in each case we have had for investigation—during the past 2 years we have had several—in each instance there have been connections between the embassies, the consulates, and the persons that we were investigating.

Mr. ARENS. How about the international organizations operating in this country?

Mr. PENNINGTON. Do you have any specifically in mind?

Mr. ARENS. Take as an illustration the United Nations.

Mr. PENNINGTON. We have never been able to prove anything in that line in connection with the United Nations.

Mr. ARENS. How about World Tourist?

Mr. PENNINGTON. No, we have not run across that.

Mr. ARENS. Amtorg?

Mr. PENNINGTON. Amtorg, I believe we have had a couple of instances. However, I can't cite the instances. Probably Mr. Avery, the assistant, would know more about those angles.

Mr. ARENS. As a matter of fact, you have never deported from this country under the immigration laws applicable to subversives any alien in 3 (1) or 3 (7) status, have you?

Mr. PENNINGTON. No, sir.

Mr. ARENS. And 3 (1) or 3 (7) status, from the standpoint of clearing the record, is the status accorded to a person in diplomatic or semi-diplomatic position?

Mr. PENNINGTON. That is right.

Mr. ARENS. 3 (1) being the status accorded to a person who is an affiliate of a consulate or embassy and 3 (7), generally speaking, is a person affiliated with a national organization?

Mr. PENNINGTON. That is right.

Mr. ARENS. Do you as a matter of policy conduct investigations on your own initiative of aliens in diplomatic or semidiplomatic status?

Mr. PENNINGTON: We never conduct an investigation of aliens in that category without first clearing with the State Department.

Mr. ARENS. How many cases has the State Department given you to investigate or cleared for you to investigate in the 3 (1) or 3 (7) status?

Mr. PENNINGTON. There have been quite a few, but they have been persons who were generally admitted as servants, as 3 (1)'s, in other words, persons generally not important.

Mr. ARENS. To your knowledge, has there ever been in the history of the country excluded from the United States under the subversive statutes any alien who presented a visa as a 3 (1) or 3 (7)?

Mr. PENNINGTON. Not to my knowledge.

Mr. ARENS. And you are Chief of the Investigations Section of the New York district office?

Mr. PENNINGTON. I have no contact, however, with the actual admission of aliens. That is in a different section.

Mr. ARENS. But you are chief of the section of the New York office that deals with subversives?

Mr. PENNINGTON. We deal with the investigation of subversives, of aliens who are in the United States or who are being held after applying for admission. The actual interrogating of the persons applying for admission to the United States is under what it known as the Boarding Division of which Mr. Gibney is now the acting chief.

Mr. ARENS. Upon the basis of your experience do you have any observations to make with respect to the extent to which the Communist apparatus in the United States is under the direction and control of persons who are in this country in diplomatic or semidiplomatic status?

Mr. PENNINGTON. I don't know as I have that directly, no.

Mr. ARENS. And under the immigration law there is no numerical limitation on the number of aliens who can be sent to this country in diplomatic or semidiplomatic status?

Mr. PENNINGTON. That is true.

Mr. ARENS. Do you know how many aliens have been sent to this country in the course of the last 10 years in diplomatic or semidiplomatic status?

Mr. PENNINGTON. I have no way of knowing that, no. They come in from all ports. The only place that would be available is in Washington, I believe.

* * * * *

Mr. ARENS. Is there any other problem you want to discuss or mention to the subcommittee?

Mr. PENNINGTON. I would like to continue off the record on this thing.

Mr. ARENS. Certainly.

(Discussion off the record.)

Mr. ARENS. Are there any other problems you want to discuss with us?

Mr. PENNINGTON. No, sir.

Mr. ARENS. We appreciate very much your being here today and cooperating with the subcommittee.

Mr. PENNINGTON. There is one thing Mr. Mackey wanted me to bring up in relation to this Kutylowski file, that he wanted it understood by the committee it is the policy of the Immigration Service to cooperate with the State Department, whenever they make such a request as they did in that particular case.

Mr. ARENS. What do you mean by "cooperation"? Do you mean they acquiesce in any request the State Department makes for the exercise of the ninth proviso when you are undertaking to exclude subversive aliens?

Mr. PENNINGTON. He didn't specify excepting that I understood he meant when the State Department told the Department of Justice that something in international policy required the Department of Justice go along with them, they would do so. At least, they did in the Kutylowski case.

Mr. ARENS. Let us explore that just a minute.

If the Justice Department under the law catches an alien at the port of entry who is excludable from this country on the grounds of security and the State Department requests the Justice Department to exercise the discretionary relief provided for in the ninth proviso, are you saying that the Justice Department will acquiesce?

Mr. PENNINGTON. As a general rule.

Mr. ARENS. Do you know of any case in which it has not acquiesced?

Mr. PENNINGTON. No, sir; I do not.

Mr. ARENS. Then it is not a general rule, it is a practice?

Mr. PENNINGTON. Well, I say it is a general rule, because they are the words Mr. Mackey told me. He says, "As a general rule, we do."

Mr. ARENS. Do you know of any case in which the Immigration Service has held up a subversive alien at the port of entry, in which case the State Department has requested the Immigration Service to let him in and the Immigration Service has not complied with the request?

Mr. PENNINGTON. No, sir; I do not personally know of any. I should like to point out one thing in connection with that, however.

It is almost mandatory that the Department of Justice cooperate, because if we find a man excludable when he is appearing with a 3 (2) visa, the State Department feels that it is sufficiently important that he come in, they can turn around and issue him a 3 (1) visa and we cannot hold him.

Mr. ARENS. They cannot issue him a 3 (1) visa unless he is a bona fide representative or affiliate of a foreign government?

Mr. PENNINGTON. That is what the law says.

Mr. ARENS. So you say the State Department would turn around and issue him a 3 (1) visa, even though he is not a 3 (1)?

Mr. PENNINGTON. I didn't say they would; I said they could.

Mr. ARENS. Is that the reason why the Immigration Service uniformly complies with the State Department to admit in this country subversive aliens?

Mr. PENNINGTON. I don't know that is the reason.

Mr. ARENS. But you say if the Immigration Service does not comply with the request of the State Department, to admit subversive aliens in this country, that the State Department would then turn around and issue a diplomatic visa to them.

Mr. PENNINGTON. I can't say "would."

Mr. ARENS. Does the Immigration Service feel it is a threat to it by the State Department if it does not comply with the request?

Mr. PENNINGTON. May I speak off the record?

Mr. ARENS. I would like to have what you want to say on the record on this point, because I think personally it is very significant.

Mr. PENNINGTON. Do you want hearsay on this record?

Mr. ARENS. You have expressed here, Mr. Pennington, as an official of the Immigration Service, a policy view. I feel that it is pertinent to this inquiry to explore that to the utmost.

Mr. PENNINGTON. I should like to make it clear at this time that any information I am giving you is not anything that I have first hand, either from the Department of Justice in Washington, or from the State Department.

Mr. ARENS. You read into the record or quoted in the record a policy statement, did you not, from the Acting Chief of the Immigration Service.¹

Mr. PENNINGTON. I believe my statement a while ago was that if we did not admit a person who is coming in as a 3 (2)——

Mr. ARENS. That is as a visitor?

Mr. PENNINGTON. As a visitor; or if he was coming as a permanent resident or anything else, that the State Department could give him a 3 (1) visa. I do not know of any instance in which they have done it. I cannot cite an instance.

Mr. ARENS. And you cannot cite any instance in which the Immigration Service has turned down a request of the State Department to let into the country an alien who has been held up as a subversive; is that correct?

Mr. PENNINGTON. I do not personally know of one; no.

Mr. ARENS. And you are Chief of the Investigations Section of the New York office?

Mr. PENNINGTON. That is right.

Mr. ARENS. Thank you very much, Mr. Pennington.

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TESTIMONY OF GERHARD ILGNER, INVESTIGATOR, IMMIGRATION AND NATURALIZATION SERVICE

Mr. ARENS. Would you kindly identify yourself by name and occupation?

Mr. ILGNER. My name is Gerhard Ilgner, investigator, United States Immigration and Naturalization Service.

Mr. ARENS. You were sworn this morning?

Mr. ILGNER. Yes, sir.

Mr. ARENS. Mr. Ilgner, you are appearing in response to a subpoena, which was served upon you?

Mr. ILGNER. Yes, sir.

Mr. ARENS. Have you been under any direction or admonition with respect to testimony from any persons?

Mr. ILGNER. No, sir.

Mr. ARENS. You feel yourself a free agent to talk without restraint before this committee?

Mr. ILGNER. Yes, sir.

¹Mr. Mackey was confirmed by the Senate as Commissioner on April 18, 1951.

Mr. ARENS. How long have you been employed in the Immigration and Naturalization Service and in what capacity?

Mr. ILGNER. I joined the Service in June of 1936 as a border patrol inspector. In April 1941, I was transferred to the New York district as an immigrant inspector. I believe about 4 years ago I was made an investigator.

Mr. ARENS. What is the nature of the work that you perform? In what unit of the Investigation Section do you function?

Mr. ILGNER. I believe it is called the Legality Status. I interview practically all of the people that come to the Investigations Section for information and determination of status. We often send out a certain number of letters, every day, persons residing in the United States illegally, that we feel we can close the case quickly without outside investigation.

* * * * *

Mr. ARENS. What information do you have respecting the problem of aliens in 3 (1) or 3 (7) status?

Mr. ILGNER. Well, there we don't have very much control. My suggestion there would be to have an officer of the Immigration Service having complete control over all entries under 3 (1) and under 3 (7) in the United States.

Mr. ARENS. To your knowledge, has an alien ever been excluded from a port of entry in the United States as a subversive if he presented a diplomatic passport?

Mr. ILGNER. That wouldn't come under my jurisdiction. I wouldn't know.

Mr. ARENS. Do you have any problems you want to discuss with the subcommittee, on the basis of your experience, to enlighten the subcommittee or to recommend to the subcommittee?

Mr. ILGNER. While you are on the United Nations there, for instance, there is a unit of the Swedish Red Cross that came to the United States, I believe it was the 1st of September.

They were admitted as visitors, for 60 days. We in Investigations started receiving files that these people were overstays around the 1st of January. When the files came to me I got in touch with Mr. Bender, of the United Nations.

Mr. ARENS. Who is he?

Mr. ILGNER. He is the head of the United States mission, I believe, to the United Nations Organization. I asked him about this particular group. He said he didn't know; he had heard of them, but would make an investigation and would call me, which he did.

He said that those people in that particular group were destined to the United Nations Organization. They remained there for 3 days and then were sent to the military in Washington, that any information regarding disposition there would have to come through the Military Section in Washington.

Now, we did find out that they did leave for Korea from San Francisco, but we have been trying to get a list of the people to check back with our records to determine whether or not they all left.

Now that is 5 months that those people could have been roaming the country and nobody knew where they were or who they were. There are possibly a hundred. Who knows how many of those people, of this hundred, were subversive? We don't know.

Mr. ARENS. Is there anything else you want to comment on, to the subcommittee, Mr. Ilgner?

Mr. ILGNER. Well, we have a large coast line here. Take Long Island. We have a border patrol here. I think it would be a good idea to check on some of these boats that come up from Cuba, or possibly make connections with some boat from Cuba. They are moored out there in the sound; they are never inspected. They are not supposed to be inspected, because they don't touch a foreign port. They could make connections 100 miles out in the ocean. Lord knows who they could pick up there and discharge on the shore.

Mr. ARENS. Do you do any free-lance investigating?

Mr. ILGNER. I have been assigned to the office for 4 or 5 years.

Mr. ARENS. Is there anything else that you want to discuss with the committee?

Mr. ILGNER. Well, we have a lot of Cubans, we have a lot of Negroes, here. I think that we should have investigators with special knowledge of Puerto Rico, for instance. You interrogate a Cuban, the first thing you know, he is a Puerto Rican, and he is a citizen of the United States. I believe if we had some investigators from Puerto Rico that knew Puerto Rico, they would be able to break down these Cubans. In my opinion, they are a bad element. It is the same with the Negro population.

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SUBVERSIVE AND ILLEGAL ALIENS IN THE UNITED STATES

THURSDAY, MAY 3, 1951

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF
THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY
LAWS, OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10 a. m., pursuant to recess, in room 424, Senate Office Building, Senator Herbert R. O'Connor presiding.

Present: Senator O'CONNOR.

Also present: Richard Arens, staff director; Frank W. Schroeder, professional staff member; Edward R. Duffy, and Donald D. Connors, Jr., investigators.

Senator O'CONNOR. The subcommittee will be in order.

I will ask you gentlemen, if you will be sworn, please, together.

In the presence of Almighty God, do you solemnly swear that the testimony you will give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DIANA. I do.

Mr. WIGGINS. I do.

Senator O'CONNOR. Will you be good enough to give your names?

Mr. DIANA. My name is Stanley A. Diana, Chief of the Detention, Deportation, and Parole Section of the Immigration and Naturalization Service. I have been in the Service for 31 years, and for the period during the war I was in charge of alien enemy paroles, and since the end of hostilities I have been put in charge of the Detentions and Deportations, and Parole.

Senator O'CONNOR. And yours, please?

Mr. WIGGINS. My name is W. W. Wiggins, Chief of the Investigation Section, Central Office, Immigration and Naturalization Service. I have been in the Immigration and Naturalization Service 29 years, and I have been Chief of the Investigations Section approximately 3 years.

Mr. ARENS. Mr. Chairman, the purpose of this inquiry is to explore with the witnesses who are present today the administration and operation of section 23 of the Internal Security Act of 1950, which relates to the apprehension and deportation of subversive aliens.

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TESTIMONY OF WILFRED W. WIGGINS, CHIEF, INVESTIGATIONS SECTION, ENFORCEMENT DIVISION, UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE

(The witness was previously sworn by Senator O'Connor as follows:)

Senator O'CONNOR. In the presence of Almighty God do you solemnly swear that the evidence you will give in this proceeding will be the truth, the whole truth, and nothing but the truth; so help you God?

Mr. WIGGINS. I do.

Mr. ARENS. Now, Mr. Wiggins, you have previously been sworn?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. Would you kindly identify yourself by position in the Immigration Service?

Mr. WIGGINS. I am Chief of the Investigations Section, Enforcement Division, Immigration and Naturalization Service.

Mr. ARENS. How long have you been so engaged?

Mr. WIGGINS. Since approximately July 1948, when the Investigations Section was started in the central office.

Mr. ARENS. What was your assignment prior to the time you became Chief of the Investigations Section?

Mr. WIGGINS. Part of that time I was an operations adviser, part of that time I was Chief Supervisor of Naturalization, and prior to coming to the central office I was 18 years in the field in various offices, divisional director, naturalization examiner, and so forth.

Mr. ARENS. Will you kindly give us just a résumé of the structure and organization of your section?

Mr. WIGGINS. In our section in the central office I have an assistant and 10 investigators. We have our section broken into three units. One unit is the Antisubversive Unit. One unit is the Intelligence Unit, and the other unit is the Smuggling Unit.

Mr. ARENS. How many men are employed in each of these three units or how many individuals are employed?

Mr. WIGGINS. I have four investigators and two employees whose titles are examiners in the Subversive Unit.

Mr. ARENS. What is the function of the Subversive Unit?

Mr. WIGGINS. The Subversive Unit supervises all the investigations looking toward the deportation of aliens under the act of October 16, 1918, as amended, and the cancellation of the naturalization of aliens on subversive grounds; the liaison with the various intelligence agencies in Washington and the transmission to the field of all intelligence information relating to subversives received.

We also supervise the issuance of warrants in subversive cases and supervise the hearings in subversive cases, supply the necessary expert witnesses, etc.

Mr. ARENS. Now your work in the Antisubversive Unit of your section is what might be regarded as supervisory over the work in the field in the various district offices; is that not true?

Mr. WIGGINS. That is true.

Mr. ARENS. Your investigators do not get out in the field to actually do investigations?

Mr. WIGGINS. Occasionally they do. Occasionally they go out in the field in the more important subversive cases and present the cases to the hearing examiners.

Mr. ARENS. The thought occurred to me that four men in an Anti-subversive Section to cover the United States is a very small number of men.

Mr. WIGGINS. That is true; they do not actually conduct the investigations in the field.

Mr. ARENS. They are more supervisory investigators; is that right?

Mr. WIGGINS. That is right.

Mr. ARENS. Now let us, if you please, Mr. Wiggins, confine our observations, until directed into other channels, to the Subversive Unit. What is the set-up in the district offices which would be comparable to the set-up in your Investigation Section?

Mr. WIGGINS. In the larger offices where we have enough investigators to have such units we have investigators who devote their time exclusively to the investigation of subversives looking toward the deportation of subversive aliens or the cancellation of naturalization of subversive aliens.

Mr. ARENS. Does your unit concern itself with the exclusion of subversive aliens or only the deportation of subversive aliens?

Mr. WIGGINS. We also concern ourselves with the exclusion of subversive aliens under section 5 which provides—

Mr. ARENS. That would be section 22 of the Internal Security Act?

Mr. WIGGINS. Section 22, yes, of the Internal Security Act.

Mr. ARENS. Which, among other things, amends section 5 of the act of October 16, 1918?

Mr. WIGGINS. That is right.

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Mr. ARENS. How many persons have been excluded as subversives who arrived at the port of entry since the Internal Security Act in the diplomatic or semidiplomatic status, namely, the 3 (1) or 3 (7) status?

Mr. WIGGINS. I don't recall any that were actually in the 3 (1) or 3 (7) status that were permanently excluded.

Mr. ARENS. How do you account for that?

Mr. WIGGINS. Well, generally speaking, we have to find that they fall within a certain class in order to be excludable. If they are in the 3 (1) or 3 (7) status—in other words, merely being members of a proscribed organization, they are exempted from exclusion by being in the 3 (1) or 3 (7) class.

Mr. ARENS. In other words, a 3 (1) or 3 (7) has to be found to be coming here to jeopardize the public safety or security beyond such membership?

Mr. WIGGINS. That is right.

Mr. ARENS. Am I to understand that you have not excluded any of those?

Mr. WIGGINS. I would say we have not.

Mr. ARENS. How many of them have been given the ninth proviso?

Mr. WIGGINS. I don't have those figures on how many of that class have been granted the ninth proviso. That really does not come under my jurisdiction, the actual grant of the ninth proviso. We could submit that.

Mr. ARENS. I wish you would do so.

Mr. WIGGINS. You want how many in the 3 (1) and the 3 (7) classes have been granted the ninth proviso?

Mr. ARENS. Yes. Is it a practice of the Immigration Service to exercise the ninth proviso on behalf of any alien concerning whom the State Department makes representations that the admission of the alien into the United States is in the public interest?

Mr. WIGGINS. I would say, generally speaking, yes. For example, we have people coming, say, to the United Nations who are not entitled to the 3 (1) or the 3 (7) status. Generally speaking, unless we have information which would lead us to a contrary decision we do grant ninth proviso on representation of the State Department that it is in the country's national interest.

Mr. ARENS. Do you know any case in which the State Department has requested the exercise of the ninth proviso in which the Immigration and Naturalization Service or the Department of Justice has not granted the ninth proviso?

Mr. WIGGINS. I am not prepared to answer that question. It seems to me there were one or two but I would not want to answer that without checking.

Mr. ARENS. The ninth proviso, of course, is that provision of the law which permits the Attorney General to admit in the country an alien who is otherwise temporarily excludable?

Mr. WIGGINS. Temporarily, yes. Maybe I can clear it up a little. You ask how many under 3 (1) or 3 (7) classes have been granted the ninth proviso. I think I am pretty safe in saying none because we can't grant the ninth proviso on the ground it would make a 3 (1) or 3 (7) excludable.

Mr. ARENS. You just do not find them excludable?

Mr. WIGGINS. That is right. We would not admit them if we found them excludable under 3 (1) or 3 (7). They are not excludable if they are in the 3 (1) or 3 (7) classes.

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Mr. ARENS. Are you permitted under your procedures to investigate looking toward deportation an alien who is affiliated with an international organization or with a consulate or embassy without first procuring clearance from the State Department for that investigation?

Mr. WIGGINS. I would say "Yes," we are permitted to make our investigation if he violated status or made himself subject to deportation.

Mr. ARENS. Are you permitted to institute deportation proceedings against such an alien without first procuring clearance from the Department of State?

Mr. WIGGINS. We are, yes; under the Internal Security Act?

Mr. ARENS. You were not prior to the Internal Security Act?

Mr. WIGGINS. We were not prior to the Internal Security Act. In other words, if a person, for example, had a 3 (1) status and the status terminated, we were not permitted to deport if the State Department requested we do not deport. Now he is deportable under the 1918 act. We do not have to have the State Department's permission.

Mr. ARENS. Do you procure that permission as a matter of administrative practice irrespective of what you may be required to do as far as the law is concerned?

Mr. WIGGINS. We would of course notify the State Department we were conducting such investigation, but we don't make any formal request for permission.

Mr. ARENS. Now, have you deported any aliens from the United States since the passage of the Internal Security Act in the diplomatic or semidiplomatic status?

Mr. WIGGINS. I think not.

Mr. ARENS. Why have you not?

Mr. WIGGINS. We haven't found any subject to deportation.

Mr. ARENS. What efforts have you made to ascertain whether or not any of them are subject to deportation?

Mr. WIGGINS. Are you speaking now of those who are still in the diplomatic status or those whose diplomatic status may have ceased?

Mr. ARENS. Let us speak first of all of those who are here in the diplomatic status. Under the Internal Security Act for the first time you are empowered to deport from the country irrespective of the views of the Department of State aliens in the diplomatic or semidiplomatic status if their presence in this country jeopardizes public safety, are you not?

Mr. WIGGINS. That is right.

Mr. ARENS. Now what efforts have you made to put that provision of the law into operation?

Mr. WIGGINS. I would say that we have not received any information that any such persons would fall in the classes making them deportable.

Mr. ARENS. Have you read the hearings on S. 1832 which went into the area of the subversive activities in the United States which are conducted, directed, and controlled by aliens in this country in diplomatic or semidiplomatic status?

Mr. WIGGINS. Yes.

Mr. ARENS. You say you have not received any information respecting subversive activities of aliens in this country in diplomatic or semidiplomatic status. What have you done to develop that information?

Mr. WIGGINS. Well, we are now reviewing all of the cases where aliens were formerly in diplomatic status.

Mr. ARENS. You are speaking of aliens who were formerly in diplomatic status but who are not in diplomatic status now; is that right?

Mr. WIGGINS. That is right.

Mr. ARENS. What are you doing to develop the facts with respect to certain subversive activities in this country of aliens who are here at the present time in diplomatic status?

Mr. WIGGINS. We are making no particular effort to investigate those. Ordinarily information would come from the Federal Bureau of Investigation on that type of case. If we got any investigation, we would investigate.

Mr. ARENS. How many aliens are in the United States at the present time in diplomatic, semidiplomatic status, 3(1)s, 3(7)s, or affiliates of international organizations?

Mr. WIGGINS. I don't have that information.

Mr. ARENS. It would be many thousands, would it not?

Mr. WIGGINS. I would say "Yes."

Mr. ARENS. What representation has the Immigration Service made to the Federal Bureau of Investigation looking toward the procurement of information respecting the subversive activities in the United States of aliens who are here in diplomatic or semidiplomatic status?

Mr. WIGGINS. We have, of course, a very close liaison with the Federal Bureau of Investigation, and any information which they receive or obtain in connection with any subversive aliens or naturalized citizens, the Department would send us.

Mr. ARENS. Why is it you would initiate cases against other subversives and handle them yourselves in the Immigration Service but do not do it in the case of aliens in diplomatic or semidiplomatic status?

Mr. WIGGINS. I don't think there is any distinction there. If information came from our own sources on anyone in the diplomatic or semidiplomatic status, we would make the investigation.

Mr. ARENS. You are Chief of this Division which has within it the unit on subversives in the United States, alien subversives?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. Do you have any doubt in your mind on the basis of your experience and background and information that the Communist conspiracy in the United States is directed, controlled, and inspired principally by aliens in the United States who are here in diplomatic or semidiplomatic status?

Mr. WIGGINS. I am not sure that I understand what you mean by that question.

Mr. ARENS. Let us start over again, then. The Communist conspiracy in the United States is a foreign-controlled conspiracy; is it not?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. The Communist apparatus in the United States is directed and controlled from Moscow; is it not?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. You are speaking now on the basis of your information and experience as Chief of this unit of the Immigration Service. Upon the basis of your information and experience, to what extent is there a tie-up between the Communist apparatus in the United States and the aliens in consulates, embassies, legations, and international organizations who enjoy diplomatic or semidiplomatic immunity?

Mr. WIGGINS. I don't have any doubt in my mind that they receive their instructions, those in the United States, receive their instructions through those sources.

Mr. ARENS. Do you have any doubt in your mind but what the espionage in the United States is directed and controlled through aliens in consulates, embassies, and international organizations?

Mr. WIGGINS. I believe that is true; yes.

Mr. ARENS. Do you have any doubt that the channeling of information back to the Kremlin is under the supervision and direction of aliens in this country in consulates, embassies, and international organizations who enjoy diplomatic immunity?

Mr. WIGGINS. I think that is true, too.

Mr. ARENS. Do you have any doubt in your mind on the basis of your experience and background and information that the control and direction of the Communist apparatus in the United States is centered in aliens who are in the consulates, embassies, and international organizations in the United States?

Mr. WIGGINS. No; I don't have any doubt in my mind on that.

Mr. ARENS. Am I clear in interpreting from what you say that you feel the direction and control of the Communist apparatus in the United States is centered in aliens in the consulates and embassies and international organizations in the United States who enjoy diplomatic immunity?

Mr. WIGGINS. Yes; I believe I can say that.

Mr. ARENS. Now for the first time in the history of this country the Internal Security Act provides for the exclusion from the United States and for the deportation from the United States of aliens, irrespective of their diplomatic status, if they are found to be engaged in activities detrimental to the public safety. Is that not true?

Mr. WIGGINS. That is true; yes.

Mr. ARENS. This Internal Security Act does not provide for the exclusion or deportation of aliens in diplomatic status who are merely members of the Communist Party?

Mr. WIGGINS. That is true.

Mr. ARENS. Or who engage in legitimate activities in the United States as representatives of their government; is that not true?

Mr. WIGGINS. That is true.

Mr. ARENS. But under the provisions of the Internal Security Act if an alien arrives in the United States or is in the United States in diplomatic or semidiplomatic status and in addition to membership in the Communist Party, engages in activities which are detrimental to the public safety of this country, such as espionage, sabotage, and the like, he is subject to deportation, is he not?

Mr. WIGGINS. Yes, sir; if that could be proved.

Mr. ARENS. Now I should like to know what efforts have been made or are being made or are proposed to be made to exclude from the United States aliens coming here in diplomatic or semidiplomatic status to engage in subversive activities, and to deport those aliens who are here in the United States in diplomatic or semidiplomatic status who are engaging in subversive activities.

Mr. WIGGINS. Well, I could answer that generally in the first place. It is extremely difficult to prove that a person in diplomatic status is engaged in activities that would bring him within the deportable clauses under the act of October 16, 1918, as amended.

Mr. ARENS. What efforts have you made to undertake to prove any of the cases? What efforts have you made to cause investigations to be instituted to ascertain what the facts are on aliens in 3 (1) or 3 (7) status?

Mr. WIGGINS. I wouldn't say we have made any specific effort as to those in the 3 (1) or 3 (7) status.

Mr. ARENS. That is the heart of the problem of your Communist conspiracy in the United States, in your judgment, is it not?

Mr. WIGGINS. Well, I can say that because of the immunities that people in the 3 (1) or 3 (7) status do enjoy it would be very easy for them to receive and transmit instructions to Moscow.

Mr. ARENS. Have you not previously testified to the effect—and do not let me put words in your mouth, but correct me if I am wrong—have you not previously testified to the effect that the Communist apparatus in the United States is controlled and directed by aliens

who are in the consulates and embassies and international organizations?

Mr. WIGGINS. I said it was my opinion it was; yes.

Mr. ARENS. And you are Chief of the Division that concerns itself with this matter from the standpoint of the Immigration Service; is that not true?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. And if these aliens in the consulates and embassies and international organizations are doing what you say it is your judgment they are doing, then they are under the Internal Security Act deportable, are they not?

Mr. WIGGINS. Well, certainly they are deportable if we can prove they are engaged in activities which bring them within those classes.

Mr. ARENS. Do you think they are doing those things which make them deportable under the Internal Security Act?

Mr. WIGGINS. Well, as I said before, it is my personal belief that the Communist Party of the United States does receive instructions through such sources.

Mr. ARENS. Do you also believe that it is under the discipline and control of men sent here in diplomatic status or semidiplomatic status attached to consulates and embassies or international organizations?

Mr. WIGGINS. I could say yes, it is my personal belief.

Mr. ARENS. This then brings us back to the fundamental question, What are we going to do about it? The act provides they can be excluded or deported. Apparently thus far we have not done much about it. Is that right?

Mr. WIGGINS. I would say that is true; yes, sir, we have not deported any of them; nor have we had any evidence that we could procure to show that they were deportable.

Mr. ARENS. What investigations have been instituted to ascertain the facts which would substantiate your belief that the aliens in the consulates and embassies and international organizations are deportable because of the direction and control which they are maintaining over the Communist apparatus in the United States?

Mr. WIGGINS. There again it would be extremely difficult to prove that because of the diplomatic immunity such persons have.

Mr. ARENS. The diplomatic immunity such person has does not go to their deportability if they engage in activities that are subversive. Nobody has diplomatic immunity to engage in such activities under the law.

Mr. WIGGINS. No, sir; that is true, if it can be proved. We would have to prove that.

Mr. ARENS. Let us get back again to the principal question. What is being done to ascertain what the facts are, looking toward deportation of those aliens in the United States in diplomatic or semidiplomatic status who are abusing the privilege of that status to engage in subversive activities?

Mr. WIGGINS. Well, we have made some investigation of persons who were accredited to the United Nations, and in some cases, a few cases, we have brought these to the attention of the State Department.

Mr. ARENS. You are not obliged to do that under the Internal Security Act, are you?

Mr. WIGGINS. No; but it is, generally speaking, because we didn't have actually admissible evidence to prove the facts that we believed.

And the ones that we have had particularly under investigation were persons that had come to the United Nations as correspondents, and so forth, not entitled to 3 (7) or 3 (1) status. We have made representation on some of those, that their accreditation to the United Nations should be terminated.

Mr. ARENS. On how many of those have you made representations?

Mr. WIGGINS. Offhand I would say probably about four or five that we brought to the specific attention of the State Department.

Mr. ARENS. What happened to those cases?

Mr. WIGGINS. On some of them their accreditation was not renewed by the United Nations.

Mr. ARENS. But you have not made representation on anyone in 3 (7) or 3 (1) status, have you?

Mr. WIGGINS. Actually in the 3 (1) or 3 (7) status; no, sir.

Mr. ARENS. The only ones you made representations on would be those in the minor category such as a radio correspondent or press correspondent?

Mr. WIGGINS. Those that were not actually representatives of their Government in the 3 (1) or 3 (7) status.

Mr. ARENS. What have you done under the Internal Security Act to put this provision into effect which provides for the deportation of aliens, irrespective of their diplomatic status, if they engage in subversive activities in the United States?

Mr. WIGGINS. About all I could say to that is that we haven't been able to get any information which would make any such persons deportable to date.

Mr. ARENS. What have you done to try to procure that information?

Mr. WIGGINS. We have, of course, received information from all of our confidential informants on any class of alien that might be deportable under the 1918 act. As I said before, we would ordinarily get such information from the Federal Bureau of Investigation.

Mr. ARENS. That is just sitting back and receiving information. What have you done to go out and try to develop information, actually investigate the cases?

Mr. WIGGINS. I would say we haven't done anything other than through our regular informants.

Mr. ARENS. Does it not occur to you that would be a pretty fertile field if this is the heart of the Communist conspiracy in the United States?

Mr. WIGGINS. It would be an extremely difficult thing to prove.

Mr. ARENS. How do you know until you have actually investigated to ascertain what the facts are?

Mr. WIGGINS. There again I am a little doubtful as to just how we could proceed to make such an investigation of a diplomat, for instance, in the Russian consulate, who enjoys diplomatic immunity.

Mr. ARENS. His diplomatic immunity does not in any sense affect his deportability for subversive activities.

Mr. WIGGINS. No.

Mr. ARENS. And his diplomatic immunity does not in any sense entitle him to engage in subversive activities in this country?

Mr. WIGGINS. No; it does not.

Mr. ARENS. So if he engages in subversive activities, he is deportable?

Mr. WIGGINS. Yes.

Mr. ARENS. Have you read the hearings on S. 1832 in which there was considerable testimony and information supplied by the intelligence agencies of this Government respecting subversive activities in the United States of aliens here as diplomats or semidiplomats?

Mr. WIGGINS. I can't say specifically that I have.

Mr. ARENS. Have you requested the Federal Bureau of Investigation to make investigation of certain of these people?

Mr. WIGGINS. Specifically no; we have not.

Mr. ARENS. Have you requested the Central Intelligence Agency to give you information respecting their background before they arrive in the United States?

Mr. WIGGINS. You mean diplomats?

Mr. ARENS. People in diplomatic or semidiplomatic status.

Mr. WIGGINS. No; I don't think we have.

Mr. ARENS. Are not those the best sources of information on what these people are and what they are doing?

Mr. WIGGINS. Yes. We have an arrangement with CIA and the FBI, if they have any such information they will transmit it to us immediately.

Mr. ARENS. Now General Clark, when he was up here testifying some time ago on the hearings on S. 1832, stated at that time to the effect that they had 23 people under investigation in the United Nations. What has been done with those cases?

Mr. WIGGINS. I don't know to what 23 he was referring.

Mr. ARENS. Did you ever take the list of the aliens in the United States in diplomatic status—that list is available, is it not?

Mr. WIGGINS. We could procure it from the State Department.

Mr. ARENS. Have you ever asked for it?

Mr. WIGGINS. No; not specifically.

Mr. ARENS. We have it and we will give you a copy of it. Would it not be a good idea to take that list of the aliens in the United States from behind the iron curtain in the consulates and embassies and international organizations and request CIA for information on their background and request the FBI for information on their activities in the United States to ascertain whether or not any one of the individuals is deportable as one who is engaging in the direction and control of the espionage and sabotage work of the Communist Party in the United States?

Mr. WIGGINS. On asking CIA for that background, if they were members of the Communist Party or something like that that would not make them deportable.

Mr. ARENS. That would not make them excludable if they came in as diplomats.

Mr. WIGGINS. It is their activity in the United States or if they entered the United States to pursue those activities.

Mr. ARENS. Let us take a particular case concerning which we questioned the State Department. Take a typical case of a man reported by an intelligence agency as being the head of the Communist intelligence network in another country, a man who is engaged in sabotage work in another country, a man who is excluded from some other countries because of the fact he was a Communist spy, director of Communist activities, and he is then sent to this country; would that not

at least arouse your suspicions that he might be engaged in the same thing in the United States?

Mr. WIGGINS. Yes; it would.

Mr. ARENS. Apparently your suspicions have not been aroused thus far on these that are here beyond the general observation that they are the heart of the Communist conspiracy in the United States; is that not true?

Mr. WIGGINS. Well there again I wouldn't say that. Of course, I said it was my personal belief.

Mr. ARENS. On what do you base that belief that the aliens in the United States in diplomatic or semidiplomatic status are the heart of the Communist conspiracy in this country?

Mr. WIGGINS. The general knowledge that the Communist Party of the United States receives their instructions from Moscow, and so forth, and that persons in the diplomatic status would be the logical persons to convey those instructions because of the diplomatic immunity they enjoy.

Mr. ARENS. How long has this antsubversive unit of the Immigration Service been in operation?

Mr. WIGGINS. Since approximately July or August 1948.

Mr. ARENS. Since that time you have not initiated any investigations of aliens in diplomatic or semidiplomatic status looking toward deportation as subversives?

Mr. WIGGINS. Yes; we have initiated some investigations of persons in the 3 (7) status or persons that were accredited to the United Nations, but we have not been able to make any deportation cases against such persons.

Mr. ARENS. How many cases have you instituted?

Mr. WIGGINS. I couldn't say offhand. I would say several at least.

Mr. ARENS. As many as a dozen?

Mr. WIGGINS. Probably about a dozen.

Mr. ARENS. What efforts have been made by your unit, by the Immigration Service, or by the Justice Department or by any agency of this Government to ascertain the facts respecting the activities in the Russian Embassy in Washington where we are now to determine whether or not aliens in that Embassy are deportable as subversives under the Internal Security Act?

Mr. WIGGINS. As I said before, we have made no specific effort to determine those people actually in the Russian Embassy. Ordinarily such information as that, if there was any such information that they were threatening internal security, would come to us from the FBI.

Mr. ARENS. I take it you have received no information of that character from the FBI?

Mr. WIGGINS. I would say not.

Mr. ARENS. Have you requested the FBI to make an investigation?

Mr. WIGGINS. Of the Russian Embassy?

Mr. ARENS. Yes.

Mr. WIGGINS. No; we haven't.

Mr. ARENS. Have you requested the FBI to make an investigation of the subversive activities of aliens in the consulates and embassies of other iron-curtain countries who are here in the United States for the purpose of instituting deportation proceedings under the Internal Security Act, if it is found that those aliens are engaged in activities

beyond membership in the Communist Party, of a subversive nature?

Mr. WIGGINS. I would say specifically we have not.

Mr. ARENS. Have you requested an investigation to be made of aliens in diplomatic status in the United Nations who are there from behind the iron curtain, to ascertain whether or not they are deportable because of subversive activities in the United States, other than mere membership in the Communist Party?

Mr. WIGGINS. No, sir; we have not requested any specific investigation of the FBI.

Mr. ARENS. Who is it in the Justice Department or in the Immigration Service who would be in a position to say, "We will do it, we will have an investigation to ascertain whether or not aliens in these categories are engaging in subversive activities which would make them deportable under the Internal Security Act"? That question might be phrased a little bit differently. Do you have the power to direct such an investigation or is that of such nature that someone in the higher echelon of the Department of Justice would be obliged to cause that investigation to be made?

Mr. WIGGINS. Well, I would say that would probably be someone in a higher position than me where we are going to request a specific investigation of people in the consulate, of a person actually in diplomatic status in the consulate.

Mr. ARENS. How about in the United Nations?

Mr. WIGGINS. You mean the 3 (7)'s?

Mr. ARENS. In the United Nations as 3 (7).

Mr. WIGGINS. Well, I would say that would have to be cleared, too. We would have to have specific information on which to start our investigation.

Mr. ARENS. With whom would you have to clear that before you would cause an investigation to be made?

Mr. WIGGINS. Well, as a matter of courtesy we would clear it of course with the State Department.

Mr. ARENS. Of course, the law previously said you had to clear it with the State Department before you could institute an investigation of an alien in diplomatic or semidiplomatic status, did it not?

Mr. WIGGINS. Yes; the law previously said we couldn't deport such a person without clearing with the State Department.

Mr. ARENS. The law now says that irrespective of an alien's activities, irrespective of his status in the United States, you do not have to ask the State Department?

Mr. WIGGINS. That is true.

Mr. ARENS. But you say as a matter of courtesy you would do so anyhow?

Mr. WIGGINS. Yes. If we had any information that the person is in the 3 (1) or the 3 (7) status and was engaged in such activity, we would bring it to the attention of the State Department, too, of course.

Mr. ARENS. Who is the individual in this Government who is empowered to say and to direct that investigation be made in this area which you have in effect described as the heart of the Communist conspiracy in the United States?

Mr. WIGGINS. I would imagine it would be the Attorney General; if he would direct we would make a specific investigation of such matters.

Mr. ARENS. As the Chief of this Division do you feel you would not be empowered to cause that type of investigation to be made without clearance with someone in the higher echelon of the Department?

Mr. WIGGINS. I would say so, I would say yes.

Mr. ARENS. Is that why you have not caused any investigations to be made because you have not received any instructions from higher up to investigate aliens who may be deportable under this law, who are in the 3 (1) or 3 (7) status?

Mr. WIGGINS. No; I wouldn't say that. I would say that we have had no, received no, specific information which would lead to such an investigation.

Mr. ARENS. How do you square your feeling that your 3 (1)'s and 3 (7)'s in the United States are the heart of the Communist conspiracy with the record of no investigations in that area?

Mr. WIGGINS. As I said before, I don't know as I made the statement they were the heart of the Communist conspiracy. I think I did say there was no question in my mind that through such diplomatic sources the Communist Party received instructions.

Mr. ARENS. That is a link in the chain with Moscow, is it not?

Mr. WIGGINS. I would say so, yes; but to actually prove under our present system overt acts that would bring such a person under a deportation statute would be very difficult.

Mr. ARENS. How do you know if you have not investigated to ascertain what the facts are?

Mr. WIGGINS. There again I don't know what type of investigation we would make. We wouldn't feel free to go and question someone in the Russian Embassy unless we had some concrete facts to base our investigation on.

Mr. ARENS. The FBI has informers in the party, has it not?

Mr. WIGGINS. Yes.

Mr. ARENS. The Immigration Service has informers in the party, does it not?

Mr. WIGGINS. No, sir.

Mr. ARENS. It has persons who are in contact with informers in the party; is that not true?

Mr. WIGGINS. That is true, and we have persons who were formerly in the party. At the present time we do not have persons directly in the party.

Mr. ARENS. And we used it in the hearings on S. 1832 witnesses who are now and who have been informers for the Immigration Service on the activities of subversive agents; is that not true?

Mr. WIGGINS. I believe it is; yes.

Mr. ARENS. Now what inquiry have you made of those witnesses who testified before this committee respecting Communist activity of aliens in diplomatic or semidiplomatic status, to ascertain what the facts are?

Mr. WIGGINS. We made no specific efforts along that line.

Mr. ARENS. Let us take a recess for lunch and resume at 1:15.

(Thereupon, at 12:30 p. m., a recess was taken until 1:15 p. m.)

AFTERNOON SESSION

TESTIMONY OF WILFRED W. WIGGINS—Resumed

Mr. ARENS. Mr. Wiggins, in order that the record may be clear on the provision of the Internal Security Act concerning which we are discussing, it is true, is it not, that under the Internal Security Act an alien with a diplomatic or semidiplomatic visa may be admitted into the United States if he is a Communist and if he does not engage in espionage, sabotage, or other subversive activity?

Mr. WIGGINS. That is right.

Mr. ARENS. So long as he confines his activity in the United States to legitimate activities, he is in no jeopardy of deportability; is that right?

Mr. WIGGINS. That is right, he is not deportable because of mere membership in the organization. He is not excludable because he is not deportable.

Mr. ARENS. Now how many aliens in the 3 (1) or the 3 (7) category, that is, the diplomatic or semidiplomatic category, have been excluded as subversives prior to the enactment of the Internal Security Act?

Mr. WIGGINS. They were not excludable prior to the Internal Security Act. The immigration laws did not apply to them.

Mr. ARENS. So prior to the enactment of the Internal Security Act, anybody who arrived at a port of entry with diplomatic or semidiplomatic visa was admitted ipso facto without question; is that not true?

Mr. WIGGINS. He wasn't admitted without questioning; no. Of course he would be questioned to see that he actually did have the diplomatic status.

Mr. ARENS. I mean he was not excludable if he did have that status; is that not true?

Mr. WIGGINS. That is right.

Mr. ARENS. And scores of thousands of aliens were admitted into the United States in that status; is that not true?

Mr. WIGGINS. Yes; that is true.

Mr. ARENS. The testimony is that over a period there had been 160,000 aliens admitted in that status who, if they acquired that status, were not excludable.

Mr. WIGGINS. That is right.

Mr. ARENS. Now how many aliens have been excluded from the United States since the enactment of the Internal Security Act who arrived at a port of entry with a 3 (1) or 3 (7) visa in diplomatic status?

Mr. WIGGINS. I don't know of any.

Mr. ARENS. How many have been deported from the United States who are here or who have been here while maintaining 3 (1) or 3 (7) status?

Mr. WIGGINS. There again I think the answer is "none."

Mr. ARENS. Now I would like to read you, if I may, the testimony of J. Edgar Hoover, Chief of the Federal Bureau of Investigation, given before the subcommittee of the Committee on Appropriations in June of 1950, with reference to diplomatic immunity:

Experience has revealed that foreign espionage agents seek the protection of legal cover. By that I mean they seek admittance in the United States on diplomatic passports. They seek assignment to some official foreign agency and

thus conceal themselves under the diplomatic cloak of immunity. To further avert suspicion, a very high ranking espionage agent may very well be employed as a clerk or in some minor capacity in a foreign establishment. However, when he speaks those with higher sounding titles follow his orders without question. Foreign espionage services maintain strict supervision over their activities in this country.

On the basis of your experience as Chief of the Investigations Section of the Immigration and Naturalization Service, is Mr. Hoover's appraisal of what the fact at least was as of June 1950 an accurate and correct appraisal?

Mr. WIGGINS. I wouldn't question Mr. Hoover's statement.

Mr. ARENS. As of the time he gave that, which was a few months prior to the enactment of the Internal Security Act, any alien in diplomatic status, 3 (1) or 3 (7) category, was not excludable from the United States; is that true?

Mr. WIGGINS. That is right.

Mr. ARENS. And he was not deportable from the United States; is that true?

Mr. WIGGINS. That is true, unless he violated his status.

Mr. ARENS. Unless he lost his status?

Mr. WIGGINS. That is right.

Mr. ARENS. But under the Internal Security Act if the alien is either coming to the United States to engage in activities which will be prejudicial to the public interest or endanger the welfare or safety of the United States, he is excludable, is he not?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. If he does engage in any of those activities, he is deportable?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. Since the enactment of the Internal Security Act, not one alien has been excluded from the United States who presented a diplomatic passport and not one alien has been deported from the United States in diplomatic status; is that correct?

Mr. WIGGINS. That is correct as far as I know.

Mr. ARENS. You are Chief of the Division; you would know, would you not?

Mr. WIGGINS. I will say "Yes"; that is correct.

Mr. ARENS. Do you have information respecting the exercise of the ninth proviso on particular cases? Do you handle that type of work where an alien arrives here who would normally be excludable, not in a diplomatic status?

Mr. WIGGINS. No, I do not. I don't handle that type of work other than—

Mr. ARENS. Who handles that out there?

Mr. WIGGINS. Probably Mr. Deveaney. Generally speaking, it would be Mr. Deveaney, Assistant Commissioner for Adjudications.

Mr. ARENS. How many aliens are there in the United States at the present time in diplomatic or semidiplomatic status?

Mr. WIGGINS. I don't know the exact number.

Mr. ARENS. What is your best judgment? It would fluctuate from month to month, I know, but what is your best judgment on the number that are here right now?

Mr. WIGGINS. I wouldn't even hazard a guess—

Mr. ARENS. It would be many thousands, would it not?

Mr. WIGGINS. Because I don't have those statistics. We do receive notice from the State Department that those people are admitted in the diplomatic status.

Mr. ARENS. There are many thousands of people in the United States, are there not, at the present time in diplomatic or semidiplomatic status?

Mr. WIGGINS. From all countries?

Mr. ARENS. Yes, sir.

Mr. WIGGINS. I would say yes.

Mr. ARENS. Now if you had information that there is in the United States at the present time an alien who is an attaché of a foreign government, who was sent to the United States with instructions to organize a military intelligence network in the United States, would you feel that that alien was a fit subject for investigation to ascertain whether or not he was deportable under the Internal Security Act?

Mr. WIGGINS. Yes, I would.

Mr. ARENS. If you had information that an employee of the United Nations, as reported from a reliable intelligence agency, is purported to be in contact with an agent, an intelligence agent of an iron curtain country, would you say that that individual would be a fit subject for investigation to ascertain whether or not he was deportable under the law?

Mr. WIGGINS. I would say yes, he would be a fit subject for investigation.

Mr. ARENS. If you had information that an official of an iron curtain country's legation supervises and controls all activities of the Communist Party among a certain national group, would you say that individual is a fit subject for investigation to ascertain whether or not he was deportable?

Mr. WIGGINS. He is an employee?

Mr. ARENS. An official of an iron curtain country's legation serves as supervisor and controls all activities on behalf of the Communist Party among a nationality group, would you say that individual is a fit subject for investigation to ascertain whether or not he was deportable?

Mr. WIGGINS. Is he an employee?

Mr. ARENS. An official of an iron curtain country's legation, serves as supervisor and controls all activities on behalf of the Communist Party among a nationality group. Would that individual be a fit subject for investigation to ascertain whether or not he was deportable under the law?

Mr. WIGGINS. I would say yes, he would be a fit subject for investigation.

Mr. ARENS. May I suggest I was merely quoting from the testimony of the former Attorney General of the United States, Tom Clark, when he described typical cases existing in the United States at the present time.

If you received information to the effect that an alien who was in the United States in diplomatic or semidiplomatic status was in the military counterintelligence organization of a foreign power, would you feel that that case should be investigated to ascertain whether or not the individual should be deported irrespective of his status?

Mr. WIGGINS. Yes, I think such a case should be investigated.

Mr. ARENS. If you received information to the effect that there was an alien in the United States who in another country had been supervising the placing of espionage agents in various installations, would your suspicions be aroused to such an extent as to cause an investigation to be made as to whether or not that alien ought to be deported?

Mr. WIGGINS. The alien entered under a diplomatic status?

Mr. ARENS. Yes.

Mr. WIGGINS. He wouldn't be deportable for acts that he committed prior to his diplomatic status.

Mr. ARENS. I say, would your suspicions be aroused to such an extent as to cause investigation to be made to ascertain whether or not he was deportable for activity within the United States?

Mr. WIGGINS. I would say yes.

Mr. ARENS. Now if you received information that a representative to the United Nations from an iron curtain country was in a session in New York City recently with Communists at which time he gave them instructions on methods of penetration into certain organizations in the United States, and if that information come to you from a man that was in the meeting, would you say that there was sufficient cause there to institute an investigation to ascertain whether or not that representative to the United Nations from this iron curtain country should be deported under the Internal Security Act as engaging in activities prejudicial to the public interest, safety, or welfare?

Mr. WIGGINS. I would say yes.

Mr. ARENS. If you had information from an intelligence agency of this Government that the Ambassador to the United States from a certain iron curtain country is in contact with Communist agents who are arranging and do arrange for his appearance among certain Communist groups in this country, would you consider that that case should be investigated to ascertain whether or not the alien is deportable under the Internal Security Act?

Mr. WIGGINS. The person you are speaking about is an ambassador?

Mr. ARENS. Yes, sir.

Mr. WIGGINS. I don't know as I could answer that question involving a matter of policy.

Mr. ARENS. It involves a matter of law, does it not?

Mr. WIGGINS. Well, the law, of course, says the provisions of section 1 (1) and 1 (3) shall be applicable to any alien within the purview of section 3 (1) of the Immigration Act of 1924, as amended, except as to ambassadors, public ministers, and so forth.

Mr. ARENS. In that one category the ambassador would be an exception?

Mr. WIGGINS. They would be subject to exclusion only under such rules and regulations as the President may think necessary.

Mr. ARENS. So I understand in that particular category he would not be deportable except in pursuance to these rules. Now has the President issued these rules and regulations as required by the Deportation Act, the higher echelon?

Mr. WIGGINS. No, sir.

Mr. ARENS. Has any attempt been made by anybody to procure White House cooperation in the promulgation of those rules and regulations?

Mr. WIGGINS. I wouldn't be able to answer that question.

Mr. ARENS. You know they have not been issued?

Mr. WIGGINS. They haven't been issued, to my knowledge.

Mr. ARENS. You would know it?

Mr. WIGGINS. I would know it if they had.

Mr. ARENS. Are you familiar with the Gubitchev case?

Mr. WIGGINS. Yes; I am somewhat familiar with it.

Mr. ARENS. What was Gubitchev's status?

Mr. WIGGINS. I don't have enough familiarity with it to testify.

Mr. ARENS. He was in diplomatic status, was he not?

Mr. WIGGINS. My recollection was that he was at one time in diplomatic status, but he wasn't at the time he departed from the country.

Mr. ARENS. Have you read the Canadian atom-bomb spy report?

Mr. WIGGINS. Yes; I have read parts of it.

Mr. ARENS. Are you familiar with the fact that the key link in the Canadian espionage ring was right in the consulate of New York City?

Mr. WIGGINS. I don't know as I have enough familiarity to answer that question.

Mr. ARENS. Do you have in your possession or has there been turned over to you as Chief of this Investigations Section of the Immigration Service the list which the Canadian Government submitted to this Government of agents in the United States of the Communist Party who cooperated in the Canadian spy ring?

Mr. WIGGINS. I am not sure whether we have that or not.

Mr. ARENS. You know that the Canadian Government did deliver to this Government a list of persons in the United States who are in that Canadian ring, do you not?

Mr. WIGGINS. Yes, sir.

Mr. ARENS. When was that turned over?

Mr. WIGGINS. I don't know the exact date.

Mr. ARENS. That list has never been made public, has it?

Mr. WIGGINS. I don't believe so. I wouldn't state positively we have it. I would have to check.

Mr. ARENS. Have you ever seen the list?

Mr. WIGGINS. No, sir.

Mr. ARENS. But you know it has been turned over?

Mr. WIGGINS. I understood it has, but I am not positive.

Mr. ARENS. In any event, you have not made any investigation of those persons involved in this list, have you, or caused an investigation to be made?

Mr. WIGGINS. I couldn't answer that without knowing the names of the persons on the list. I would have to check that with the office.

Mr. ARENS. You have not had a list before you of people in the United States who were involved in the network which operated in Canada to procure the atom-bomb secrets; is that right?

Mr. WIGGINS. I don't want to testify positively on that until I check.

Mr. ARENS. Now these people were working through the Russian Embassy right here in Washington, were they not, in this atom bomb spy ring?

Mr. WIGGINS. That was my understanding; yes.

Mr. ARENS. What investigation has been made to ascertain whether or not those persons in the Russian Embassy, who were working on this atom-bomb spy ring, are subject to deportation from the United States under the Internal Security Act as aliens whose activities are prejudicial to the public interest or endanger the welfare or safety of the United States?

Mr. WIGGINS. I don't know as I can answer that without checking our records as to whether we have had access to such a list or information or whether we made a specific check yet.

Mr. ARENS. You have no independent recollection of any investigation of that character, as I take it?

Mr. WIGGINS. No.

Mr. ARENS. What is your backlog of investigations right now, of all characters, of all kinds?

Mr. WIGGINS. As of the end of March we had 42,510.

Mr. ARENS. That is all types of cases?

Mr. WIGGINS. That is all types of cases pending.

Mr. ARENS. That would include even naturalization cases, would it not?

Mr. WIGGINS. That would include all types of investigations.

Mr. ARENS. Does the Service engage in any free lance investigating as distinguished from investigations of record entry cases?

Mr. WIGGINS. I would say at the present time very little.

Mr. ARENS. Virtually none, is it not?

Mr. WIGGINS. It is virtually none. What you mean by free-lance investigation is going out and looking for aliens illegally in the United States, and so forth. We haven't had the personnel. Our personnel has been entirely occupied with the cases that come in to us.

I would like to make just one little statement here to clear up the record.

Mr. ARENS. Certainly, go right ahead.

Mr. WIGGINS. Whether my testimony would indicate that I positively know that there are persons in diplomatic or semidiplomatic or 3 (7) status who are subject to deportation and we have made no effort to ascertain what evidence can be procured that such people are deportable, I do want to state that we are putting two investigators on the task of analyzing and going through committee reports and congressional reports to ascertain what information we can get from them that would justify initiating such investigations. Up to this time we just have not had the force to thoroughly undertake that task. We are immediately putting two investigators full time on that task.

Mr. ARENS. Let me make a suggestion to you just for what it is worth and see what you think about it. Would it not be a good idea if you take the list of all aliens in the United States from behind the iron curtain in diplomatic or semidiplomatic status, both in the consulates and in the embassies and in the international organizations and trade missions such as Amtorg, World Tourist, and the like, and request the Central Intelligence Agency to give you information on their background, and request the FBI to give you information respecting their present activities in the United States? Has anybody ever done that?

Mr. WIGGINS. We have not taken any such specific groups and requested the FBI or CIA to give us information on such persons as groups unless any information has come to us that such persons may be subject to deportation. We do have arrangements, as I have stated before, that any such information coming to the attention of the intelligence agencies such as the Central Intelligence Agency or the FBI, is transmitted to us promptly.

I would say this further, that any subversive investigation before we undertake any investigation, we do clear with the FBI to make sure that we will not interfere with any pending investigation that they may have.

Mr. ARENS. It would only take about 5 minutes to dictate a letter to the State Department requesting them to give you the information on the 3 (1)s or 3 (7)s who have been admitted into the United States in the course of the last year or so, would it not?

Mr. WIGGINS. We could get that, yes, very easily.

Mr. ARENS. Do you have contact with the Biographical Section of the State Department which has the background?

Mr. WIGGINS. Yes, sir. We have a close liaison with the State Department, Biographical Section, Security Section, Visa Section. We have one man who spends practically all of his time in liaison work with all intelligence agencies.

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SUBVERSIVE AND ILLEGAL ALIENS IN THE UNITED STATES

TUESDAY, MAY 29, 1951

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10:30 a. m., pursuant to call, in room 424, Senate Office Building, Hon. Homer Ferguson presiding.

Present: Senator Ferguson.

Also present: Richard Arens, director of the subcommittee; Frank W. Schroeder, professional staff member; Edward R. Duffy, investigator.

Senator FERGUSON. The subcommittee will come to order.

Mr. ARENS. Senator, may I respectfully suggest that all of the gentlemen present at the present time be sworn and that we proceed with the interrogation and that each witness identify himself, and then we can let the individual who has the information answer the question.

Senator FERGUSON. I think that would be the best way to proceed.

Will you all stand and raise your right hands, please? Do you solemnly swear that in the matter now pending before this committee you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ARENS. For the purpose of the record would each of you kindly identify yourselves and indicate your titles?

Mr. L'HEUREUX. I do. My name is H. J. L'Heureux, and I am Chief, Visa Division.

Mr. REINHARDT. I do. My name is Fred Reinhardt, Director, Eastern European Affairs.

Mr. VEDELER. I do. My name is Harold C. Vedeler, Officer in Charge of Polish, Balkan, and Czechoslovakian Affairs.

Mr. AILSHIE. I do. My name is William K. Ailshie, special assistant to the Director, Office of Security and Consular Affairs.

Mr. KERRY. I do. My name is Richard J. Kerry, administrative attorney, Division of International Administration of the Bureau of United Nations Affairs.

Mr. NICHOLSON. I do. Donald Nicholson, Chief, Division of Security, Department of State.

Mr. ALEXANDER. I do. Robert C. Alexander, Assistant Chief, Visa Division.

TESTIMONY OF H. J. L'HEUREUX, CHIEF, VISA DIVISION; FRED REINHARDT, DIRECTOR, EASTERN EUROPEAN AFFAIRS; HAROLD C. VEDELER, OFFICER IN CHARGE OF POLISH, BALKAN, AND CZECHOSLOVAKIAN AFFAIRS; WILLIAM K. AILSHIE, SPECIAL ASSISTANT TO THE DIRECTOR, OFFICE OF SECURITY AND CONSULAR AFFAIRS; RICHARD J. KERRY, ADMINISTRATIVE ATTORNEY, DIVISION OF INTERNATIONAL ADMINISTRATION OF THE BUREAU OF UNITED NATIONS AFFAIRS; DONALD NICHOLSON, CHIEF, DIVISION OF SECURITY, DEPARTMENT OF STATE; AND ROBERT C. ALEXANDER, ASSISTANT CHIEF, VISA DIVISION

Senator FERGUSON. You may proceed, Mr. Arens.

Mr. ARENS. If the chairman please, there are a series of questions and items concerning which it is proposed that the gentlemen present be interrogated, and I suggest that after a question is asked each or any of you who may have information on the question first identify yourself for the record so that the record will reflect who is speaking, and then proceed with your testimony.

The first question I should like to propound is this: How many visas have been issued in the course of the last year to aliens in the 3 (1) or 3 (7) category, the 3 (1) category being by way of explanation, aliens who apply as affiliates of foreign governments and the 3 (7) category being aliens who apply as affiliates of international organizations?

Senator FERGUSON. What do you call an affiliate?

Mr. ARENS. I would suggest that they explain that, Mr. Chairman.

Mr. L'HEUREUX. It would be an accredited official to our Government here or to the United Nations and other international organizations.

Mr. ARENS. Mr. L'Heureux is Chief of the Visa Division.

Mr. L'HEUREUX. During fiscal year ended June 30, 1950, 663 visas were issued to citizens nationals of the Soviet Union and other satellite countries.

Senator FERGUSON. Do you have a breakdown on that?

Mr. L'HEUREUX. I have a breakdown.

Senator FERGUSON. Will you file it for the record?

Mr. L'HEUREUX. I will file the report.¹ I have the two preceding years.

¹The report which is found herein is the latest version, containing information on both 3(1)'s and 3(7)'s.

(The information follows:)

Diplomatic and official 3 (1) and 3 (7) visas issued, fiscal years 1948 through 1951

	Fiscal year 1948		Fiscal year 1949		Fiscal year 1950		Fiscal year 1951, July 1950- March 1951 ¹	
	3 (1)	3 (7)	3 (1)	3 (7)	3 (1)	3 (7)	3 (1)	3 (7)
Albania.....				1				
Bulgaria.....	4	3	19	4	2	4		1
Czechoslovakia.....	99	50	86	50	114	58	31	39
Hungary.....	33	3	39	3	29	2	36	4
Poland.....	146	42	120	42	91	53	69	51
Rumania.....	49	2	27	1	10	1	14	2
U. S. S. R.....	230	153	203	167	210	169	149	175
Yugoslavia.....	57	43	89	42	207	96	134	53
Total.....	618	296	583	310	663	383	433	325
Other nationalities.....	13,611	2,887	12,014	3,450	11,534	3,704	12,082	3,109
Grand total.....	14,229	3,183	12,597	3,760	12,197	4,087	12,515	3,434

¹ Figures cover period from July 1, 1950, through Mar. 31, 1951. Figures may not be complete—based on consular reports received in the Department of State through May 31, 1951.

Mr. ARENS. I see that your answer is confined to 3 (1) from behind the iron curtain; is that correct?

Mr. L'HEUREUX. That is true.

Mr. ARENS. That is the area in which we are especially interested.

Senator FERGUSON. But he is talking about 1950.

Mr. L'HEUREUX. We do not have the figures for this year yet because we haven't completed our year, but I could obtain them for you through March 31. The consuls report monthly.

Senator FERGUSON. Would you do that?

Mr. L'HEUREUX. Yes. We will get our latest reports and supply the information to you, and I think they will be complete down to March 31.¹

Mr. ARENS. During the fiscal year 1950 visas were issued to 663 aliens in the 3 (1) category; is that correct?

Mr. L'HEUREUX. Yes.

Mr. ARENS. Do you have the statistics on the number of visas issued to aliens in the 3 (1) category in other years?

Mr. L'HEUREUX. I have them for the two preceding years, the fiscal years ending June 30, 1948, and June 30, 1949. For the year ending June 30, 1948, it was 618 visas that were issued in the 3 (1) category and for the subsequent year 583.

Mr. ARENS. By subsequent year you mean 1949?

Mr. L'HEUREUX. Ending June 30, 1949.

Mr. ARENS. Now these visas concerning which we are now speaking were all issued to aliens coming from iron-curtain countries?

Mr. L'HEUREUX. That is correct.

¹ The report found on p. 51 contains all the information promised.

Mr. ARENS. Do you have the information on the aggregate total number of 3 (1) visas which were issued irrespective of the country from which the alien was coming for these years?

Mr. L'HEUREUX. During the fiscal year ended June 30, 1948, the grand total was 14,229; during the fiscal year ended June 30, 1949, the grand total is 12,597; during the fiscal year ended June 30, 1950, the grand total is 12,197. I will furnish the committee with statistics regarding visas issued during the current year as far as we may have them.

Now, with reference to the visas issued to aliens or nationals of iron-curtain countries falling under section 3 (7) of the Immigration Act of 1924—

Mr. ARENS. Would you kindly pause there, Mr. L'Heureux, to give a word of explanation as to what you mean by a 3 (7) category?

Mr. L'HEUREUX. Category 3 (7) is a visa issued to a person coming to the United Nations or to other recognized international organizations. During the fiscal year ended June 30, 1948, there were 296. I will first give those from the iron-curtain countries and then the grand totals. The fiscal year ended June 30, 1949, 310; fiscal year ended June 30, 1950, 383. The grand total, visas issued in the 3 (7) category for the year ended June 30, 1948, 3,183; for the fiscal year ended June 30, 1949, 3,760; for the fiscal year ended June 30, 1950, 4,087. Similarly I will furnish information regarding those issued during the current year.

Mr. ARENS. Then roughly speaking during the fiscal year 1950 there were approximately 1,000 visas issued to aliens from iron-curtain countries who received those visas because of their diplomatic or semidiplomatic status; is that correct?

Mr. L'HEUREUX. That is correct.

Mr. ARENS. Do you have information respecting the number of aliens in the United States at the present time who gained admission into the United States as 3 (1) or 3 (7)?

Mr. L'HEUREUX. I do not have that information.

Mr. ARENS. Who would have that information?

Mr. L'HEUREUX. Immigration would. What about Protocol? We would have in the Department figures of those that are here that were duly accredited.

Mr. AILSHIE. Just to this Government.

Mr. L'HEUREUX. We also get reports from the United Nations because it is supposed to report to us when the alien departs, when he severs his connections.

Mr. KERRY. We could supply the total number of persons on 3 (7) visas here at this time.

Mr. ARENS. Could you also supply the number of persons with 3 (1) visas who are here at the present time?

Mr. L'HEUREUX. My Division wouldn't have the figures, but I think the Division of Protocol in the Department of State would have those, and I shall attempt to obtain those.

Mr. ARENS. If you will procure those and submit them they will be incorporated in the record at this point.

(The information follows:)

INTERNATIONAL ORGANIZATION ALIENS RESIDENT IN THE UNITED STATES

1. UN Secretariat (Dec. 31, 1950) -----	1, 774	2. Delegations of member states to UN (May 1951) :	
2. Delegations of member states to UN (May 1951) :		Poland-----	3
Afghanistan-----	5	Saudi Arabia-----	3
Argentina-----	10	Sweden-----	3
Australia-----	4	Syria-----	3
Belgium-----	8	Thailand-----	3
Bolivia-----	4	Turkey-----	6
Brazil-----	9	Union of South Africa---	3
Canada-----	5	Union of Soviet Socialist Republics -----	22
Chile-----	10	United Kingdom-----	17
China-----	23	Uruguay-----	2
Colombia-----	6	Venzuela-----	7
Costa Rica-----	1	Yugoslavia-----	11
Cuba-----	6	3. Pan American Sanitary Bureau (June 1, 1951)-----	75
Czechoslovakia-----	3	4. World Health Organization (June 1, 1951)-----	17
Denmark-----	5	5. Council of the Organization of American States (June 1, 1951)-----	25
Dominican Republic-----	5	6. Secretariat of the Organization of American States, PAU (June 1, 1951)-----	113
Ecuador-----	7	7. Inter-American Defense Board:	
Egypt-----	10	Secretariat (June 1, 1951)-----	2
France-----	20	Military (June 1, 1951)---	22
Greece-----	5	8. Inter-American Statistical Institute (June 1, 1951)-----	4
Guatemala-----	2	9. North American regional office, FAO (June 4, 1951)---	8
Haiti-----	3	10. UN International Children's Emergency Fund (Mar. 31, 1951)-----	33
Honduras-----	1	11. International Bank for Reconstruction and Development (Apr. 30, 1951)-----	158
India-----	4	12. International Monetary Fund (May 1, 1951)-----	202
Indonesia-----	6		
Iran-----	10		
Iraq-----	1		
Israel-----	4		
Lebanon-----	3		
Mexico-----	3		
Netherlands-----	7		
New Zealand-----	2		
Nicaragua-----	3		
Norway-----	5		
Pakistan-----	4		
Panama-----	3		
Paraguay-----	1		
Peru-----	5		
Philippines-----	9		

1. The foregoing figures include only foreign-government representatives and international organization employees and do not include any members of their immediate families, or any other persons entitled to derivative 3 (7) status.

2. The figures give the number of aliens designated by governments as their representatives in or to various international organizations in the United States and the number of aliens employed by those international organizations in the United States. A certain number of these aliens do not, however, have 3 (7) status. The figure of 1,774 UN Secretariat employees includes locally recruited employees and includes some aliens on immigration visas. Of the 75 Pan-American Sanitary Bureau employees 73 are on 3 (7) visas. Of the eight aliens in the North American regional office of WHO, four are members of the staff's regional office and four are out of the Rome office on missions of indeterminate duration. Three of these eight aliens are here on immigration visas. Items 6, 10, 11, and 12 also include a small number of persons on immigration visas. The figures on foreign representation do not include the Swiss, Italian, or Austrian observers of the UN. The figures do not include a variable number of aliens now approximately 25, acting in a liaison capacity between UN and the specialized agencies.

3. The number of certain-country nationals employed by the UN Secretariat and here on 3 (7) visas is as follows: U. S. S. R. 19, Poland 33, Czech 29, Bulgaria 2, and Hungary 2. (It may be noted that a number of these certain-country nationals are known to be hostile to the present regimes in their countries.)

Mr. ARENS. Would you also in that tabulation procure for the subcommittee the information on the 3 (1) and 3 (7) in the United States from behind the iron curtain? ¹

Mr. L'HEUREUX. Yes.

Mr. ARENS. Now may I ask this question, gentlemen: How many aliens who have applied for visas in the 3 (1) or 3 (7) category have been turned down since the enactment of the Internal Security Act on September 22, 1950?

Mr. L'HEUREUX. I don't recall any case where a visa was formally refused. I do recall two or three cases in the 3 (1) category where we did not issue visas when they were requested. In other words, we didn't create an incident by making a formal refusal, but our investigations and our inquiries preceding a decision on the issuance of visas indicated facts the results of which were that we did not issue them.

Under 3 (7) there were five cases that failed to receive visas under similar circumstances.

Mr. ARENS. Were they turned down or were the visas just not issued?

Mr. L'HEUREUX. The visas were just not issued.

Mr. ARENS. Is there any case of a 3 (1) or 3 (7) applicant which has been turned down, visa denied, since the enactment of the Internal Security Act on September 22, 1950?

Mr. L'HEUREUX. None were turned down formally, none were informed that their visa applications had been refused. We just did not act and do not intend to act.

Mr. KERRY. There was one 3 (7) case in which a turn-down was actually made.

Mr. L'HEUREUX. It could be, I don't recall it. You know of one case?

Mr. KERRY. Yes.

Mr. ARENS. Under the provisions of the Internal Security Act is it not true that an applicant in the 3 (1) or 3 (7) category is not excludable because of mere membership in the Communist Party?

Mr. L'HEUREUX. That is true.

Mr. ARENS. And an applicant in the 3 (1) or 3 (7) category is under the internal security law inadmissible to the United States, deportable from the United States, if he is found here if the administrative authorities find that his admission into the country or his presence in the country would endanger the welfare or safety of the United States; is that correct?

Mr. L'HEUREUX. That is true.

Mr. ARENS. How many 3 (1)'s as to whom visas have been issued have you had adverse security information on prior to their admission into the United States?

Mr. L'HEUREUX. Not a single case that I recall. In other words, no visas were issued to persons on whom we had information that rendered them inadmissible under the Security Act of 1950.

Mr. ARENS: That is, since the enactment of the Internal Security Act?

Mr. L'HEUREUX. Yes; that is, with the exception of those who were excepted from the operation of the act such as those who fell in the 1 (2) category.

¹ The report is on p. 51.

Mr. ARENS. Yes. How many 3 (1)'s to whom visas have been issued have you acquired adverse security information on after their admission into the United States?

Mr. L'HEUREUX. We have recently gone through many files in the Visa Division, examining the situation, and we have located 48 files in which adverse information was obtained subsequent to the issuance of the visa, after the alien had arrived in the United States.

Mr. ARENS. Those are on 3 (1)'s?

Mr. L'HEUREUX. Those are on 3 (1)'s, that is right.

Mr. ARENS. How many of these aliens on whom adverse security information has been acquired after their admission into the United States have thus far been required to leave the United States?

Mr. L'HEUREUX. Perhaps one of the political officers could better answer that.

Mr. KERRY. Are you speaking of 3 (1)'s now?

Mr. ARENS. 3 (1)'s exclusively at the moment.

Mr. REINHARDT. I know of no case of a 3 (1) who has been required to leave the United States since September 22, 1950.

Mr. ARENS. Since the enactment of the Internal Security Act?

Mr. REINHARDT. That is right.

Mr. ARENS. Who is responsible for requiring 3 (1)'s to leave the country on the basis of adverse security information in the Department of State?

Mr. L'HEUREUX. Well, the adverse reports received either from the field or security sources in the United States, when received in the Department are sent to the Division of Security, which Mr. Nicholson is in charge of. Mr. Nicholson then has copies made and forwards a copy to the Visa Division and a copy to the pertinent political desk. If it concerns a United Nations or international organization person it would go to UNI, which is a division in the Department concerned with international or United Nations matters.

Mr. ARENS. Mr. Nicholson, how many cases of 3 (1)'s in the United States have you had furnished to you information of an adverse security character?

Mr. NICHOLSON. I think that goes back to the figures which Mr. L'Heureux has which are combined figures for the 3 (1)'s, which was 48, I think.

Mr. L'HEUREUX. We had information subsequent to the issuance of the visa. Now the question is how many were required to leave, is that it?

Mr. ARENS. Yes, sir.

Mr. REINHARDT. I think I replied to that question, and I said that to my knowledge there were no 3 (1) cases which had been required to leave since September 1950.

Mr. ARENS. Mr. Nicholson, may I ask you this question: Has the Federal Bureau of Investigation or any intelligence agency of this Government supplied to the Department of State or to any division of the Department of State to your knowledge a request or a suggestion that certain aliens who had been admitted into the United States in the 3 (1) category should be required to leave the United States on security grounds?

Mr. NICHOLSON. I don't recall any specific case, but if information of that nature as it comes to me is passed on to the Visa Division and to the political desk for action.

Mr. AILSHIE. Do you mean since the passage of the Security Act?

Mr. NICHOLSON. I don't recall any since the passage.

Mr. ARENS. These 48 cases which Mr. L'Heureux has testified to on which security information has been developed, whose responsibility is it in the Department to appraise that information and to make a decision and to put the wheels in motion to procure the departure of the aliens if their presence in the United States is deemed to be detrimental to the security interests of this country?

Mr. NICHOLSON. The political office.

Mr. ARENS. Who is from the political office present today, who can enlighten us?

Mr. NICHOLSON. Mr. Reinhardt?

Mr. REINHARDT. I would like to suggest that the correct answer to that question is not any specific office, it is the Department as a whole. I think it is quite evident that depending on the seriousness and magnitude of the problem will depend at what level the problem can be resolved within the Department.

There is in effect a procedure in the Government to deal with cases of this kind, and if you wish I could outline it to you in general terms to indicate what the procedure is for handling cases of foreign diplomats and officials on whom adverse evidence is developed by the Federal Bureau of Investigation or by some other interested Government agency.

Mr. ARENS. Under the Internal Security Act the Attorney General is obliged to deport from this country, irrespective of the views of the State Department, aliens who are in the country in jeopardy of the public safety; is that not correct?

Mr. REINHARDT. That is right.

Mr. ARENS. So apparently any procedure worked out by the State Department is in advance of the action by the Attorney General; is that correct?

Mr. REINHARDT. The procedure I had reference to is one in which the Attorney General has participated.

Mr. AILSHIE. I think Mr. Alexander could comment on that, Mr. Arens. I don't think that is what the law provides.

Mr. ALEXANDER. Do you have a copy of the Security Act, section 22, subsection 4 (a) of the act of October 16, 1918? You see, if you except in that case 3 (1) or 3 (7)'s from the petition—

Mr. ARENS. I think that the language of the act, Mr. Alexander, excepts 3 (1)'s or 3 (7)'s if they are a member of a designated class, namely, the class section 1 (2) of the act, but if a 3 (1) or 3 (7) is not in the class designated in section 1 (2) of the act the Attorney General is obliged to deport him, irrespective of the action of the State Department; isn't that correct?

Mr. ALEXANDER (reading):

Any alien who was at the time of entering the United States, or has been at any time thereafter, a member of any one of the classes of aliens enumerated in section 1 (1) or section 1 (3) of this Act or (except in the case of an alien who is legally in the United States temporarily as a nonimmigrant under section 3 (1) or 3 (7) * * *

and then it goes on.

Section 1 (2) of this Act shall, upon the warrant of the Attorney General, be taken into custody * * *.

The way I read that, section 3 (1) or 3 (7) people lawfully in the United States, in that status, are exempted from deportation under this provision.

Mr. ARENS. Doesn't paragraph (b) also provide for the deportation of aliens irrespective of their categories who engage in activities designated in paragraph (1) of section 22 of the Internal Security Act?

Mr. ALEXANDER. I don't read that as requiring the Attorney General to walk in and to arrest and start deportation proceedings on a 3 (1) or 3 (7) person without following the normally established procedure of consulting the Secretary of State.

Mr. ARENS. But there is nothing in the Internal Security Act which requires consultation with the Secretary of State, is there?

Mr. ALEXANDER. I wouldn't say that there is anything that requires it, but we do have provisions with respect to 3 (7) people in Headquarters Agreement with the United Nations that do require consultation with the Secretary of State and the Secretary General of the United Nations before action can be taken against 3 (7) people who are with the United Nations.

Mr. ARENS. We are at the moment discussing 3 (1)'s, however.

Mr. ALEXANDER. In the case of 3 (1)'s, I don't read the act as requiring that the Attorney General take action against a person who was exempt from the excluding grounds when he came here and require him to get out after he arrived.

Mr. ARENS. I am talking about a 3 (1) who was excludable at the time of admission.

Mr. ALEXANDER. I don't get that at all.

Mr. ARENS. Is there any place in the Internal Security Act which requires the Attorney General, before he deports an alien in the 3 (1) category, who was excludable at the time of admission as one who would jeopardize the public security of this country, to first consult with the State Department before he does so?

Mr. ALEXANDER. I don't believe the act requires that in specific terms, no, sir.

Mr. ARENS. The act requires, however, the Attorney General to deport such an alien.

Mr. AILSHIE. Mr. Chairman, may I ask a question? As I understand the act, an applicant for a 3 (1) visa is not inadmissible under section 1 (1) so I don't see how he could be excludable under 1 (1) after he is here. It is my understanding that 3 (1)'s are exempt from 1 (1).

Mr. ALEXANDER. Some 3 (1)'s are excludable under 1 (1). It is only ambassadors and ministers and diplomatic officers. I would think that since those people are exempt from exclusion when they arrive that the Attorney General would not deport them after they arrive without at least consulting the Secretary of State or the President, who has the authority under this act to receive them. Certainly receiving them means for a period of time requires a statement from the Secretary or the President as to when he no longer shall desire to receive them.

Mr. ARENS. You are speaking to a provision which is applicable to ambassadors, consuls, and career diplomats governed by such rules and regulations as the President may deem necessary; is that not correct?

Mr. ALEXANDER. Yes.

Mr. ARENS. But that is not all 3 (1)'s.

Mr. ALEXANDER. That is right.

Mr. ARENS. So there are some 3 (1)'s not in this category?

Mr. ALEXANDER. Yes.

Mr. AILSHIE. They would be clerks.

Mr. ARENS. While we are on that point may I invite your attention to section 6 (c) of the Internal Security Act, which provides as follows:

the provisions of section 1 (1) and 1 (3) shall be applicable to any alien within the purview of section 3 (1) of the Immigration Act of 1924, as amended, except ambassadors, public ministers, and career diplomatic and consular officers who have been accredited by a foreign government recognized de jure by the United States and who are accepted by the President or the Secretary of State, and members of the immediate families of such aliens, who shall be subject to exclusion under the provisions of section 1 (1) only pursuant to such rules and regulations as the President may deem to be necessary.

Has the President issued any rules and regulations providing for criteria or standards pursuant to which aliens in this category referred to in section 6 (c) shall be excludable or deportable?

Mr. ALEXANDER. Do you want me to answer it?

Mr. ARENS. If you have the information.

Mr. ALEXANDER. The statute says under such rules and regulations as the President may deem to be necessary. So far as I know the President has not deemed any to be necessary, he certainly has not issued any. There has been established, however, a procedure which Mr. Reinhardt was mentioning for removing these people from the country.

Mr. ARENS. You have had adverse security information on 48 of them after they arrived in the country with your visas. Now as I understand it none of them have thus far been required to leave the country?

Mr. ALEXANDER. Since the Internal Security Act.

Mr. ARENS. Let us pause right there. Where did you get this adverse security information? Did somebody make an investigation or did it just come to you?

Mr. NICHOLSON. It comes by and large from the FBI.

Mr. ARENS. Would you like to comment, Mr. Reinhardt?

Mr. REINHARDT. Mr. Chairman, what I have here is a description of the procedure used to deal with cases of this category. It is a procedure which has been agreed to by the Attorney General, the Department of Defense, and the Department of State, also the Department of Treasury participating in it.

When in carrying out their respective responsibilities for maintaining internal security of the Nation the Attorney General or the Secretary of Defense believes that the activities of the foreign diplomat or other official are prejudicial to the internal security of the United States the case, including all relevant facts, should be brought to the attention of the Secretary of State, who will advise concerning (1) the actual official status of the individual concerned; (2) what immunity, if any, the individual enjoys; (3) the relevance of activities in which he is alleged to be participating to his officially notified duties; (4) whether in the case of an individual who does not enjoy complete diplomatic immunity: (a) his alleged activities in the event they constitute an offense against the criminal laws of the United States are of such seriousness as to justify subjection of the individual to the jurisdiction of our courts * * *; (b) or failing that his alleged activities are of such seriousness as to justify in the light of the country's foreign relations as being declared persona non grata or otherwise removed from the country in accordance with the appropriate procedures; (5) whether in

the case of an individual who in fact enjoys complete diplomatic immunity the alleged activities are of such seriousness as to justify in the light of the country's foreign relations as being declared *persona non grata*.

Thereupon the Secretary of State after consultation with such other Cabinet officers as may have an interest in the case can determine what disposition can be made of the case.

Mr. ARENS. Who promulgated those rules and regulations you are reading from?

Mr. REINHARDT. This is an agreed procedure worked up with the Attorney General, the Department of State, and the Department of Defense to cope with this type of case.

Mr. ARENS. When was it worked up?

Mr. REINHARDT. This has been a procedure in effect for many years.

Mr. ARENS. Prior to the Internal Security Act they never deported an alien on internal-security grounds; is that not true?

Mr. REINHARDT. I think that is not true. I think in the last 3 years there have been some 15 cases of foreign officials in the 3 (1) category removed from this country.

Mr. ARENS. I said "deported" from this country?

Mr. REINHARDT. You mean under the immigration and naturalization procedure?

Mr. ARENS. Yes, sir.

Mr. REINHARDT. I know of none.

Mr. ARENS. Has there ever to your knowledge in the history of this country been an individual deported from this country in the 3 (1) or 3 (7) category on security grounds?

Mr. REINHARDT. I can't give a categoric answer, I would have to find out.

Mr. ARENS. Do you have information respecting any case? How long have you been in the Department?

Mr. REINHARDT. About 14 years.

Mr. ARENS. Do you have information or recollection of any case in the history of your experience of an alien in this country in the 3 (1) or 3 (7) category that has been deported on security grounds?

Mr. REINHARDT. Mr. Chairman, I think there is a difficulty of terminology. A 3 (1) visa is a visa which the Secretary of State can terminate just like that. The moment he does so the individual has to get out.

Mr. ARENS. Let us ask the question another way. Has there ever been an individual to your knowledge who obtained a visa for entry into the United States as 3 (1) or 3 (7) as a diplomat or semidiplomat who was ever deported from the country?

Mr. REINHARDT. I am not a lawyer, Mr. Chairman, and I am worried about the term "deportation," because there is a procedure for removing these people from the country, but I don't think it corresponds to the technical meaning of "deportation" in our immigration law.

Mr. ARENS. The internal security law provides for deportation of anybody irrespective of his status who is in the United States in jeopardy of the public safety; is that not correct?

Mr. ALEXANDER. I am not sure about that, Mr. Chairman.

Mr. AILSHIE. I wouldn't understand that reference.

Mr. L'HEUREUX. I would say this, Mr. Chairman: His government can be requested to recall him. If his government refuses to recall him then the Secretary may call upon Immigration or agree to a

deportation proceeding, but thus far it has not been necessary. When the Secretary determines that a person must leave and notifies his government and requires that he be recalled in every case he has been recalled.

Mr. ARENS. How many of these 48 cases in which you have had adverse security information have been required to depart?

Mr. L'HEUREUX. These 48 cases concern cases before and since the Security Act.

Mr. ARENS. How many of them have been required to depart?

Mr. ALEXANDER. I don't know of any.

Mr. REINHARDT. I would like to make a reply to that question. I think that it will be possible to work up an answer to your query. It is a little complicated for the following reason: In the last 2 or 3 years there has been quite a closing down on the establishments here of certain countries, the Czechoslovak consulates have been closed.

Mr. ARENS. You have about a thousand that you issued visas to in the last year.

Mr. REINHARDT. You were referring to these 48 cases?

Mr. ARENS. Yes.

Mr. REINHARDT. I was replying that a number of institutions have been closed in which these people were members as well as the fact that you have some 15-odd cases who were asked to leave the country in that category, the 3 (1) category, in the last 3 years.

Mr. ARENS. Would you want to proceed with your outline of the procedure there?

Mr. REINHARDT. Well, sir, that was the outline of the procedure as I gave it.

Mr. AILSHIE. Mr. Chairman, could I make a comment?

Mr. ARENS. Yes.

Mr. AILSHIE. I think the difficulty in referring to the deportation of 3 (1)'s is that as 3 (1)'s, the ones we are generally speaking of are Ambassadors, secretaries, and consuls, and they are immune from deportation the same as they are immune from arrest, and it would be like saying how many diplomats are arrested. As long as they are diplomats they are immune, so the way to get them out is to end their status, and then they leave.

Mr. L'HEUREUX. If they fail to leave then deportation proceedings may be instituted because they have no status.

Mr. AILSHIE. That is right.

Mr. ARENS. If an individual gains admission to this country as a 3 (1) or a 3 (7) and because of his activities in this country the safety of this country is in jeopardy and he has his 3 (1) or 3 (7) status terminated, he is ipso facto subject to deportation by the Attorney General?

Mr. L'HEUREUX. That is correct.

Mr. ARENS. How many have been deported?

Mr. AILSHIE. The answer is none because they have all left.

Mr. ARENS. How many?

Mr. L'HEUREUX. All.

Mr. REINHARDT. I mentioned 15; if you are speaking of September 1950, I know of no cases where the security organs of the Government have requested removal of the individual. These cases go back 2 years before.

Mr. ARENS. How many aliens in the 3 (7) category—those are aliens allied with an international organization—have you had adverse security information on prior to the time that they were issued visas?

Mr. L'HEUREUX. None of them.

Mr. ARENS. How many aliens in the 3 (7) category to whom visas were issued have you acquired adverse security information on them after they were issued the visas and have come into the country?

Mr. L'HEUREUX. From the check of the visa files within the past few days, we have ascertained 37 cases on which adverse information was received subsequent to the issuance of the visa and subsequent to their admission into this country.

Mr. ARENS. Thirty-seven in the 3 (7) category?

Mr. L'HEUREUX. That is correct.

Mr. ARENS. How many in the 3 (1) category was it?

Mr. L'HEUREUX. Forty-eight, I believe it was.

Mr. ARENS. That means about 85 in the diplomatic or semidiplomatic status in this country at the present time where you have acquired, adverse security information on them; is that correct?

Mr. L'HEUREUX. Not precisely because some of those may have left of their own accord. Their assignment terminated in the UN and they went out, in other words. Some in the 3 (1) category may have been personnel of the consulates that we have closed.

Mr. ARENS. I see. But there have been 85 over what period of time on whom you have acquired adverse security information since their admission into the country in the 3 (1) and 3 (7) categories?

Mr. ALEXANDER. The reports are current; some are in 1950 and some in 1951 after the Security Act.

Mr. ARENS. Am I to understand, Mr. Alexander, that these 48 cases on which you have adverse security information on in the 3 (1) category and the 37 cases on which you have adverse information on in the 3 (7) category, making a total of 85, are current cases?

Mr. ALEXANDER. Current cases of persons in the country today or who may have left, found in the Visa Division. Whether the Political Division or any other office knows that they are here, we don't know that.

Mr. KERRY. There are cases like that.

Mr. ARENS. Let's get the record crystal clear on this. There are 85 current cases of aliens admitted into this country in the recent past on whom you have adverse security information in the 3 (1) and 3 (7) category; is that correct?

Mr. ALEXANDER. That is correct.

Mr. ARENS. Does anyone take issue with that statement?

Mr. AILSHIE. That is correct.

Mr. L'HEUREUX. Mr. Chairman, that last answer wasn't quite correct because—Mr. Kerry, you are more familiar with that, would you explain the number of cases required to depart in the 3 (7) category included in the cases we are discussing?

Mr. KERRY. I would like to say that I am testifying in the absence of Mr. William O. Hall, Director of the Office of International Administration and Conferences. He was very anxious to be here, but unfortunately was sick today.

Of these 37 cases in the 3 (7) category, with respect to which there is adverse information, that includes some three or four people who have

departed voluntarily prior to deportation action being initiated; it includes several cases in process.

It also includes several cases which are presently under consideration for action. I think it is necessary to add that this adverse information varies a great deal in character. In many cases it is a mere allegation as to which the reliability of the source may not be known, and as to which the probative value of the evidence may be doubtful.

So that when we speak of 37 cases that includes every kind of case.

Mr. ARENS. We speak of 85 cases, do we not?

Mr. KERRY. I am referring only to the 3(7)'s.

Mr. ARENS. I see. Where did you get this adverse security information? You secure it from the intelligence agencies of this Government; do you not?

Mr. NICHOLSON. That is right.

Mr. ARENS. Now may I invite your attention to section 11 of the Headquarters Site Agreement and specifically to categories 3, 4, and 5 of section 11 of the Headquarters Site Agreement. Section 3 refers to "representatives of the press, or of radio, film, or other information agencies."

Category 4 refers to "representatives of nongovernmental organizations recognized by the United Nations * * *."

Category 5 refers to "other persons," invitees of the United Nations.

Those are all categories within section 11 of the Headquarters Site Agreement.

How many aliens to whom visas have been issued in categories 3, 4, and 5 of section 11 of the Headquarters Site Agreement have you had adverse security information on prior to the time that the visas were issued to those people?

Mr. L'HEUREUX. None where visas were issued. We wouldn't have issued visas if we had adverse information that rendered them inadmissible. We know of two cases where we declined, not formally but did not issue visas because there was adverse information. There were two other cases where ninth proviso action was requested and the Attorney General has delayed granting action and visas were not issued and probably will not be issued. Twenty-one of them were inadmissible under category 1 (2) of the Security Act of 1950, but in which case the Attorney General did authorize their admission under the ninth proviso, and reports will be submitted as required to the committee by the Attorney General.

Mr. ARENS. Well, now, how many cases in categories 3, 4, and 5 of section 11 of the Headquarters Site Agreement are there on which you have acquired adverse security information since their admission into the United States?

Mr. L'HEUREUX. So far as we have been able to ascertain in the Visa Division there have been two such cases and in both instances the aliens have departed from the United States. Do you have any additional information on that, Mr. Kerry or Mr. Nicholson?

Mr. ARENS. Now, under the ninth proviso of section 3 of the 1917 Immigration Act as amended by the Internal Security Act, if an alien is inadmissible to the United States on security grounds, the Attorney General is empowered under what is called the ninth proviso to temporarily admit that alien into the United States; is that correct?

Mr. L'HEUREUX. That is correct.

Mr. ARENS. Does anyone take issue with that?

Mr. KERRY. May we have the question?

Mr. AILSHIE. He can't admit anyone; he can only admit them if they are inadmissible under 1 (2) but not 1 (1) or 1 (3).

Mr. ARENS. If it is membership in the Communist Party?

Mr. AILSHIE. Yes.

Mr. ARENS. How many ninth proviso Communist cases has the Department of State requested the Attorney General to exercise the ninth proviso on?

Mr. L'HEUREUX. The Secretary of State has not requested the Attorney General to invoke the ninth proviso in any case of an actual Communist with the exception of those coming to the United Nations. There were 21 such cases in which the Secretary of State did request ninth-proviso action, but all of these were coming to the United Nations.

Mr. ARENS. Has the Department of Justice ever turned down a request by the Department of State for the exercise of the ninth proviso to your knowledge?

Mr. L'HEUREUX. Well, I mentioned a while ago that there were two cases in which we requested ninth-proviso action in which the Attorney General has not acted and probably will not act. He has not notified us that he has declined to invoke the ninth proviso, but there are two pending.

Mr. ARENS. Is there a gentleman here who is familiar with the ninth-proviso action which we understand was exercised by the Attorney General at the behest of the Department of State in the case of Roman M. Kutylowski?

Mr. VEDELER. Mr. Chairman, I am familiar with that case. We requested that action because we did not consider he was a Communist Party member on the basis of the evidence available to us.

Mr. ARENS. When did Mr. Kutylowski apply for ninth proviso action?

Mr. VEDELER. Well, he returned to the United States I believe on December 23, 1950, and I believe he attempted to enter the United States as a permanent resident, because he left the United States on that basis. He had been in the United States for some 18 or 20 years. As far as the Department was concerned they did not permit him to return on that basis. He was allowed to enter through ninth proviso action as a temporary resident who could be deported at any time it was considered desirable.

Mr. ARENS. Now did the State Department make representations to the Department of Justice that Mr. Kutylowski's admission into the United States would be in the public interest?

Mr. VEDELER. I believe that is true, Mr. Chairman.

Mr. ARENS. Well, is it true?

Mr. VEDELER. May I speak off the record here?

Mr. ARENS. I would rather have your comments on the record and then we can go off later on.

Mr. VEDELER. I can't state why it was without going off the record.

Mr. ARENS. Did the State Department make representation to the Department of Justice that Mr. Kutylowski's entrance would be in the public interest?

Mr. VEDELER. I believe that is true.

MR. ARENS. Did the State Department know at that time, at the time the State Department made that representation to the Department of Justice, that Mr. Kutylowski had previously been president of the Gdynia Lines in the United States?

MR. VEDELER. Yes, sir.

MR. ARENS. The Gdynia Lines operated, did it not, the motorship *Batory* on which Gerhart Eisler escaped from the United States?

MR. VEDELER. Yes, sir.

MR. ARENS. Did the State Department know, at the time it made the representation to the Department of Justice that Mr. Kutylowski's admission to the United States would be in the public interest, that Mr. Kutylowski, when he had previously been in the United States, had disseminated large amounts, substantial amounts, of money in propaganda on behalf of the Communist Polish regime?

MR. VEDELER. No; I am not familiar with that.

MR. ARENS. Did the State Department know, at the time it made its representations to the Department of Justice that Mr. Kutylowski's admission into the United States would be in the public interest, that Mr. Kutylowski, when he was previously in the United States as President of the Polish Gdynia Lines, was instrumental in the operation of at least two radio stations, radio programs, on behalf of the Communist Polish regime broadcasting Polish propaganda?

MR. VEDELER. No, I wasn't familiar with that.

MR. ARENS. Did the Department of State know, at the time it made its representation to the Department of Justice that Mr. Kutylowski's admission into the United States would be in the public interest of the United States, that the two radio programs which were sustained through the efforts of Mr. Kutylowski were driven off the air because they were Communist propaganda?

MR. VEDELER. I did not know that.

MR. ARENS. Did the State Department, at the time it made its representations to the Department of Justice that the admission into the United States of Mr. Kutylowski would be in the public interest, know that Mr. Kutylowski, when he had previously been in the United States, had been in frequent consultation with the Communist Polish Ambassador?

MR. VEDELER. I would assume that he would be. I did not know about any particular conversation he may have had, but it would be natural for the Polish Ambassador here to have an interest in the Gdynia-America Line because the Gdynia-America Line is a Polish—was incorporated in New York as an American corporation, but it is really a Polish Government agency.

MR. ARENS. Do you have any information, or did you at the time the State Department made the representation to the Department of Justice that the admission to the United States of Mr. Kutylowski would be in the public interest, have any information respecting any other subject matter which was worked out between Mr. Kutylowski and the Communist Polish Ambassador in the United States.

MR. VEDELER. No, I don't recall any specific.

MR. ARENS. Did the State Department procure any security reports on Mr. Kutylowski prior to the time the State Department made representations to the Department of Justice that Mr. Kutylowski's admission into the United States would be in the public interest?

Mr. VEDELER. We have a great deal of security information on him in the various parts of the Department. That was carefully examined.

Mr. AILSHIE. Mr. Chairman, may I make a statement?

Mr. ARENS. Yes.

Mr. AILSHIE. You have used the phrase that we requested the Attorney General to grant the ninth proviso in the "public interest." I think that was just an offhand expression. What we say is that it was in the "national interest" in the conduct of foreign relations subject to whatever information the Attorney General has.

Mr. ARENS. Did the Department of State know, at the time the Department of State made its representation to the Department of Justice that Mr. Kutylowski's admission would facilitate foreign relations, that Mr. Kutylowski had been registered with the Department of Justice at one time as an agent of a foreign principal under the Foreign Agents Registration Act?

Mr. VEDELER. In conducting the Gdynia-America Line?

Mr. ARENS. Yes, sir.

Mr. VEDELER. I am not sure whether we had that information available in the Department or not. I would assume that that would be the case.

Mr. ARENS. Did the Department of State, at the time it made its representation to the Department of Justice with respect to Mr. Kutylowski, have any information respecting the whereabouts of Mr. Kutylowski's family?

Mr. VEDELER. Yes, sir. The family was in Poland.

Mr. ARENS. Mr. Kutylowski had sent his family to Poland prior to his own admission into the country under the ninth proviso, is that not true?

Mr. VEDELER. I couldn't say as to that, sir. We didn't know why his family didn't come back here.

Mr. ARENS. Well, Mr. Kutylowski's family was at one time in the United States, was it not?

Mr. VEDELER. We know his family is now in Poland.

Mr. ARENS. His family was here in the United States, was it not?

Mr. VEDELER. I believe at one time; yes.

Mr. ARENS. And they went back to Poland, did they not?

Mr. VEDELER. Yes.

Mr. ARENS. Did the Department of State have information at the time—

Mr. VEDELER. I think they went back together and he returned.

Mr. ARENS. Yes, that is correct. Did the Department of State have information, at the time it made its representation to the Department of Justice, that the *Batory*, the motorship *Batory*, which was operated by the Gdynia Lines of which Mr. Kutylowski was president, had over the course of a substantial period of time been operating a conduit to Greece of certain Greek seamen who were going to Greece to join the Communist guerrillas in Greece?

Mr. VEDELER. I couldn't speak for the Department as a whole on that matter. May I say something off the record here?

Mr. ARENS. Yes, sir.

(Discussion off the record.)

Did the Department of State have before it the published hearings of the Senate Committee on Immigration and Naturalization respecting Communist activities among aliens and national groups at the time the Department made its representation to the Department of Justice respecting Mr. Kutylowski's admission?

Mr. VEDELER. I imagine the Security Division did and the Visa Division did. I did not have it myself.

Mr. ARENS. Did the Department have any information respecting the newspaper Nowa Epoka and Mr. Kutylowski's connection with that paper at the time the Department of State made its representation to the Department of Justice that Mr. Kutylowski's admission into the country would be in furtherance of the foreign relations of the United States?

Mr. VEDELER. As far as I am concerned, I did not know that he had any particular connection with it at that time.

Mr. ARENS. Does the Department of State have any information respecting the newspaper Nowa Epoka? It is a Polish Communist newspaper, is it not?

Mr. VEDELER. Yes.

Mr. ARENS. Did the Department of State know that Mr. Kutylowski had 450 shares of stock in that paper?

Mr. VEDELER. I did not know.

Mr. ARENS. Are you the individual in the Department who actually caused the representation to be made to the Department of Justice?

Mr. VEDELER. I discussed the case with other parts of the Department and I made the recommendation.

Mr. ARENS. How many cases in which an alien is excludable under the provisions of the Internal Security Act has the Department of State requested ninth proviso action by the Attorney General?

Mr. ALEXANDER. In the broad field of excludability under the Internal Security Act, which includes the Attorney General's interpretation that persons who served in armed forces—Germany, Italy, and so forth—were excludable under that act, I would say, offhand, that we have probably requested ninth proviso action in perhaps a thousand cases.

Mr. ARENS. In the course of the period of time since the Internal Security Act became law?

Mr. ALEXANDER. That is right.

Mr. ARENS. Since September 22, 1950?

Mr. ALEXANDER. And before the clarifying act of March 28.

Mr. ARENS. At the time the Department of State made its representations to the Department of Justice on the Kutylowski case, did the Department of State have any information respecting the vice president of the Gdynia-America Line, Inc., Mr. Grzelak?

Mr. VEDELER. Yes, sir, Mr. Chairman. He used to be vice president.

Mr. ARENS. Former?

Mr. VEDELER. Yes. I believe he left the United States a year or two ago, did he not?

Mr. ARENS. In how many cases has the Department of State requested ninth proviso action in which an alien would be excludable under the Internal Security Act other than those cases of nominal membership in organizations concerning which Mr. Alexander addressed himself a few moments ago?

MR. ALEXANDER. There have been a few cases of persons who were voluntary members of the Nazi or Fascist organizations, and they are no longer members.

MR. ARENS. How about members of the Communist Party?

MR. ALEXANDER. There have been some cases of former members of the Communist Party such as those coming to the Moral Rearmament Conference which was held here in Washington in early January. There have been only 21 cases of persons who were actually members of the Communist Party, and all of those were covered in Mr. L'Heureux's statement concerning people coming to the United Nations.

MR. ARENS. Were those people in the section 11 category of the United Nations Headquarters Site Agreement?

MR. ALEXANDER. Section 11 (3), (4), and (5).

MR. ARENS. Gentlemen, I should like to invite your attention to a particular section of the Headquarters Site Agreement, section 6, annex 2 of the Headquarters Site Agreement, which reads as follows:

Nothing in the agreement shall be construed as in any way diminishing, abridging, or weakening the right of the United States to safeguard its own security and completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity, as to be defined and fixed in a supplementary agreement between the Government of the United States and the United Nations in pursuance of section 13 (3) (e) of the agreement, and such areas as it is reasonably necessary to traverse in transit between the same and foreign countries. Moreover, nothing in section 14 of the agreement with respect to facilitating entrance into the United States by persons who wish to visit the headquarters district and do not enjoy the right of entry provided in section 11 of the agreement shall be construed to amend or suspend in any way the immigration laws of the United States or to commit the United States in any way to effect any amendment or suspension of such laws.

Now that has been the law of the land since August 4, 1947; has it not? Now will someone please express himself as to whether or not there has yet been negotiated this supplementary agreement between the Government of the United States and the United Nations, fixing the headquarters district and its immediate vicinity.

MR. KERRY. It is my understanding that no such agreement has been negotiated as yet.

MR. ARENS. The purpose of this section in the law, was it not, sir, was to fix an area in which aliens coming to the United Nations would have an immunity but outside of which they would not have an immunity from the standpoint of certain activities? Is that not correct?

MR. KERRY. I don't believe I am competent to answer that question.

MR. ARENS. What has been done from the standpoint of the Government of the United States to undertake to cause this supplementary agreement provided for by the law of the land as of August 4, 1947, to be negotiated?

MR. KERRY. Negotiations were undertaken some 2 years ago but no agreement could be reached. The United Nations has taken the position that it cannot agree to definition of an area until the United States accedes to the General Convention on Privileges and Immunities, as the Headquarters Agreement and that convention were intended to be complementary.

Mr. ARENS. Then that means, does it not, sir, that so far as the law is concerned there is no geographical limitation upon the movements of aliens who are brought to the United Nations who are Communists; is that not correct?

Mr. KERRY. No, sir; I do not believe that is correct.

Mr. ARENS. Are any limitations then imposed upon their movements?

Mr. KERRY. The visa may be issued limiting those persons to the headquarters area concerning which there is at the present time an informal understanding. Could you supplement that statement, Mr. Alexander, as to the exact area of movement in which restricted visas may be accomplished?

Mr. ARENS. That is only in a limited area or category of visas?

Mr. ALEXANDER. The Attorney General has unilaterally defined or delimited a certain area for administrative purposes which will be considered as the headquarters site and the immediate vicinity pending the negotiation of the formal agreement with the United Nations.

Mr. ARENS. But that unilateral arrangement is only applicable to transients, is it not?

Mr. ALEXANDER. I don't know. I know it is applicable to persons who get visas valid to and from this area, but how much policing of the area for other purposes is concerned I don't know. In other words, I wouldn't know whether the Department of Justice would regard the United Nations official as being out of bounds if he left this unilaterally defined area of the Attorney General.

Mr. ARENS. Do you know of any case in which an official, Communist official, of the United Nations has been required to limit from a geographical standpoint the area in which he operates in the United States as of now?

Mr. ALEXANDER. In the cases of the ninth proviso people, section 11 (3), (4), and (5)?

Mr. ARENS. I do not mean ninth proviso people, I mean people who procured the 3 (7) visa and have come to the United Nations even though they are Communists.

Mr. ALEXANDER. I know of no case in which a 3 (7) person has been limited; 3 (7) visas like 3 (1) visas are granted for the whole country. It is only the section 11 (3), (4), and (5) people who are limited to a particular area from the immigration point of view, that is all I can speak of.

Mr. ARENS. But under section 6 of annex 2 of the Headquarters Site Agreement, provision is made for a limitation from a geographical standpoint of the area of activity of aliens who come into the United Nations in 3 (7) status; is that not correct?

Mr. ALEXANDER. Provision is made for negotiating an agreement defining the headquarters district and immediate vicinity. One of the purposes of that is for the limitation of people coming in under 11 (3), (4), and (5). What other purpose it may have I don't know.

Mr. ARENS. So that the record may be clear again at this point, please express yourselves if you take issue with this. Under the Internal Security Act no alien in 3 (1) or 3 (7) category is excludable just because he is a Communist; is that not correct?

Mr. ALEXANDER. That is correct.

Mr. ARENS. The only one, alien, who is excludable in 3 (1) or 3 (7) category who is a Communist is the alien who comes to this country

to engage in or does engage, after admission into this country, in activities detrimental to the safety of this country, such as sabotage or espionage?

MR. ALEXANDER. Yes.

* * * * *

MR. ARENS. May I ask this: Is there any observation which any of you gentlemen would care to make for the record on any subject?

MR. REINHARDT. I believe it was mentioned by Mr. Kerry but I would like to repeat it. There is one difficulty that arises out of the use of the term "adverse information." It is very important to recognize that it covers the spectrum, from a chance remark that somebody has made to actual substantial evidence. Of course, the quality of that adverse information, whether it is at one end or the other end of the spectrum, is important in dealing with the case. I can point back to a couple of years ago to such cases as the Gubitchev case, where the evidence was conclusive, and then the case of Lieutenant Redin, on whom sufficient adverse information was obtained.

MR. ARENS. It is not necessary to hang a man or to send him to the penitentiary before this country concludes that that individual's presence in this country is not wanted?

MR. REINHARDT. That is true, but an off-chance remark which is reported is hardly substantial evidence of his character.

MR. SCHIROEDER. The records that you receive from various Government agencies, you evaluate those reports?

MR. REINHARDT. Yes, but they are of all characters, from very trivial to serious.

MR. SCHIROEDER. The CIA or the FBI; how do you consider their reports?

MR. REINHARDT. It depends on the report.

MR. ARENS. What has the Department of State done to ascertain who among the 3 (1)'s and 3 (7)'s in the United States are engaging in activities detrimental to the public safety?

MR. NICHOLSON. The responsibility for the internal security of the United States, as you know, I am sure, Mr. Chairman, is the responsibility of the Department of Justice. In carrying out that responsibility, any information that they get, any adverse information, I assume that all the information that they get about aliens who have 3 (1)'s and 3 (7) visas, is passed to the Department of State. That then is the raw information, which, as Mr. Reinhardt said, requires evaluation, and it is not necessarily the source of the agency from which we get the information, but it is their source and the extent of the information that is a primary problem in evaluation.

MR. ARENS. You are Mr. Nicholson?

MR. NICHOLSON. Yes, sir.

MR. ARENS. You are the security officer of the Department of State? What is your title?

MR. NICHOLSON. Chief, Security Division.

MR. ARENS. How long have you been so engaged?

MR. NICHOLSON. I have been Chief of the Division since June of 1948.

MR. ARENS. What was your occupation prior to that time?

MR. NICHOLSON. Prior to that? Well, let me go back and reverse it. I will just give you a broad high lighting.

In 1931, I graduated from George Washington University Law School. In August of 1931, I went with the FBI. I served with them until November 1935. I left the FBI in 1935, at which time I was in charge of the Detroit office. I went with the Department of Agriculture in an investigative organization that was being set up there and stayed with Agriculture until, well, I think the day or two after Pearl Harbor when I went with one of the defense agencies as their Chief Inspector to set up an intelligence and investigation branch for them.

In September 1942, I went with the War Production Board as special assistant to the Chairman to handle principally the security activities and security part of the \$1-a-year program that was quite extensive in WPB. I then went with Commerce for a time after the war, and then in November of 1947 I went to the Department of State, first as Deputy Director of the Office of Controls, which was Mr. Boykin's office, and then in June 1948, I took over Security.

Mr. ARENS. What is the nature of your work?

Mr. NICHOLSON. Now?

Mr. ARENS. Yes.

Mr. NICHOLSON. Well, my basic responsibility is the responsibility for the security of the Department of State, and that I think is the distinction—and the Foreign Service—and that includes personnel and physical security. In other words, be sure who our people are and be sure that our documents and so forth have adequate physical security protection.

Mr. ARENS. You are not a policy man; are you?

Mr. NICHOLSON. No, no.

Mr. ARENS. You only acquire information, is that correct?

Mr. NICHOLSON. That is right, and evaluate on the personnel and physical security problems.

Mr. ARENS. On the basis of your background and experience and training, do you have any observation to make respecting the extent to which the Communist apparatus in the United States has an alliance or tie-up with aliens who are sent into the United States in diplomatic or semidiplomatic capacity?

Mr. NICHOLSON. Well, I think we have to assume, knowing the aims of the Communist Party, that people who come here from the iron-curtain countries are Communists and are working for the Communist enterprise.

Mr. ARENS. But there is a distinction, is there not, between a man who is a Communist and who would be nonexcusable if he were coming here as a 3 (1) or 3 (7) and a man who is coming here as an agent or as an active director of Communist activity in the United States?

Mr. NICHOLSON. Certainly, because I think that you must realize the Communists, in certain respects, organizationally, are the same as ourselves. In other words, I am probably the only man at the table who could be classified as an intelligence operator, while the other men are Government men. I think the same thing applies to the Communists.

Mr. ARENS. To what extent, on the basis of your background and experience as a security officer, would you say there is a tie-up between the Communist apparatus in the United States and persons who are sent to the United States in diplomatic or semidiplomatic capacity?

Mr. NICHOLSON. Well, I think that that question would be more appropriately answered by Mr. Hoover, but I will say that there certainly is indication that there is a tie between them.

Mr. ARENS. Would you say, on the basis of your background and experience, that the Communist apparatus in the United States gets its directives, its control, from aliens who are sent into the United States in diplomatic and semidiplomatic capacity?

Mr. NICHOLSON. I don't know that they get all of it, but I think they get some of it that way.

Mr. ARENS. Under the Internal Security Act, the alien who does participate while in the status of a 3 (1) or 3 (7) in the direction or control of the Communist apparatus in the United States would be excludable or deportable from the United States; would he not?

Mr. NICHOLSON. That is my understanding.

Mr. ARENS. The Communist apparatus in the United States is only part of an international network; is that not true?

Mr. NICHOLSON. That is my understanding.

Mr. ARENS. On the basis of your experience, would you say that is a fact?

Mr. NICHOLSON. Yes.

Mr. ARENS. And the line of command goes from the Communist apparatus in the United States up to and including Moscow, is that not correct?

Mr. NICHOLSON. Yes, so far as I know. I am not in the party, but so far as I know that is correct.

Mr. ARENS. Well, on the basis of your experience. You are experienced in this field, are you not, and have been in the field for several years?

Mr. NICHOLSON. That is correct.

Mr. ARENS. Would you express in the record, if you please, how the directives come from Moscow and how the information goes back to Moscow, to and from the local Communist apparatus in the United States?

Mr. NICHOLSON. I don't know that I am qualified at the moment to make a statement on that because following the Communist line as such—well, I have followed the line but not the organization as intensely as other people in the field have.

Mr. ARENS. Was the situation in the Hong Kong office under your surveillance?

Mr. NICHOLSON. Well, after we got the allegations—no, not directly under the Division of Security. That was the foreign inspectors that handled the Hong Kong matter.

Mr. ARENS. What place did you have in the development of the factual situation in the Hong Kong office?

Mr. NICHOLSON. After it came to light, I sent an investigator to Hong Kong to assist. Let me put it this way: After the information came to light, the case, for prosecution purposes, was turned over to the Department of Justice. Then at the request of the Federal Bureau of Investigation, I sent an agent to Hong Kong to investigate the criminal aspects of it and to obtain—

Mr. ARENS. What was the situation in Hong Kong?

Mr. NICHOLSON. Well, that I think has been pretty well covered.

Mr. ARENS. Just in general.

Mr. NICHOLSON. Well, there had been allegations of visa frauds in the Hong Kong consulate. The Foreign Service inspectors went in and determined from their investigations that there had been visa frauds. They got an admission of visa frauds and also an admission of homosexuality on the part of several employees there.

Mr. ARENS. Was there any information to the effect that the Communists were using this sexual perversion as a wedge to procure the issuance of visas for Communists?

Mr. NICHOLSON. No, so far as we know there was no Communist angle to the Hong Kong situation. There could have been, but fortunately we don't see any evidence that they used that.

Mr. ARENS. What has happened thus far in the Hong Kong situation from the standpoint of clearing it up?

Mr. NICHOLSON. Well, we have terminated the homosexuals. We have terminated the visa officer who was responsible for it. He is back in the United States. The case is under investigation and is being handled by the Department of Justice. We have had many conferences with the FBI and the Attorney General's office on the prosecution of the case.

Mr. ARENS. How many homosexuals were involved in the Hong Kong office?

Mr. NICHOLSON. There were four in Hong Kong, and we got information on one other that was brought back.

Mr. ARENS. Do you have any information on the number of fraudulent visas that were issued by those people in the Hong Kong office who were involved in this situation?

Mr. NICHOLSON. I don't have all of the details. Possibly Mr. L'Heureux has the details.

Mr. L'HEUREUX. I saw the report briefly, but I don't recall the exact figures.

Mr. ARENS. Were there as many as 100?

Mr. NICHOLSON. As I recall, and I am merely speaking from memory now, I think there were roughly 80 in the category, 75 to 80. We worked very closely with INS also, and persons who may still be in the country. That information has all been turned over to INS.

Mr. ARENS. Have any of them been picked up, to your knowledge, who have gained admission?

Mr. NICHOLSON. To my knowledge, I don't know.

Mr. ARENS. Just one other area I would like to ask a few questions on, Mr. L'Heureux, and that is with reference to the Cuban situation. You will recall in the recent past provision has been made for the reinstatement of visa procedure for Cuban nationals coming to the United States from Cuba. What is your information with respect to how that program is getting along?

Mr. L'HEUREUX. The program is getting along very well indeed. They are just now going into the season of an increased number of tourists coming to the United States, and we have given them all the personnel that they requested originally. Recently they have asked for additional personnel and we have asked them to justify the necessity of increasing their personnel. I don't remember how many, but there are quite a number of personnel.

Mr. ARENS. Are they handling the workload down there satisfactorily with the personnel that they have?

Mr. L'HEUREUX. Very well, but they anticipate that the load may be so much that they cannot handle it with the personnel they have. We told them to hold up on the nonpreference cases until the season is over and then pick up the nonpreference cases again.

Mr. ARENS. Mr. Alexander, do you have any observations to make on the Cuban situation? You recall the conferences that were in process on that when we were working on this project?

Mr. ALEXANDER. Beyond what Mr. L'Heureux said, I have nothing to add.

Mr. L'HEUREUX. I would like to make the statement that I saw yesterday where our Embassy in Cuba said it had refused far more visas than they had anticipated.

Mr. ARENS. Is the number of refusals on security grounds appreciable?

Mr. L'HEUREUX. Yes.

Mr. ARENS. It would stand to reason that if we did not have that security procedure these people would be likely to come into the States?

Mr. L'HEUREUX. Yes; they would be likely to because on entrance, the immigration men would not have the adverse information. I think it has strengthened the situation a good deal and it was taken in time.

Mr. ARENS. We hope it was taken in time.

Mr. L'HEUREUX. It wasn't taken too early.

Mr. VEDELER. May I make a comment about the Kutylowski case? Certain things in that case are such that I would like to speak about them off the record if you wish to hear it.

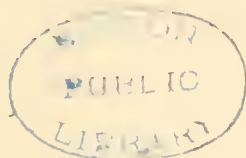
Mr. ARENS. We would be happy to have you do so, and we would be happy to have you speak on the record, but I want you to exercise your judgment from the standpoint of any policy matters that you want to discuss.

Mr. VEDELER. These are considerations that I would like to keep off the record.

Mr. ARENS. Gentlemen, we will now recess.

(Whereupon, at 12:20 p. m., the hearing was recessed.)

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